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ABSTRACT

Presented is a digest of state and federal laws relating to the education of handicapped children which is published by The Council for Exceptional Children (CEC). Part one considers the laws of the 50 states and the District of Columbia under the following subject categories: right to an education, population, identification and placement, administrative responsibility, planning, finance, administrative structure and organization, services, private schools, personnel, and facilities. Citations are provided for those who wish to refer to the original text of the laws. Part two is a digest of federal laws having particular relevance to education of handicapped children. The digest of federal laws, organized according to statute, includes laws such as the following: Economic Opportunities Amendments of 1972, National Technical Institute for the Deaf Act, Vocational Education Amendments of 1968, and An Act to Promote the Education of the Blind. Readers seeking additional information are referred to the State-Federal Information Clearinghouse for Exceptional Children at CEC headquarters. (GW)

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DIGEST OF STATE AND FEDERAL LAWS:

Education of Handicapped Children

2nd EDITION

EC 050 219

CEC

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DIGEST OF STATE AND FEDERAL LAWS: EDUCATION OF HANDICAPPED CHILDREN

Second Edition
November, 1972

Edited by

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Information Clearinghouse for Exceptional
Children

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
OFFICE OF EDUCATION
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INTRODUCTION

This is the second edition of the digest of state and federal laws relating to education of handicapped children published by The Council for Exceptional Children. The Digest was initially developed and updated by the State-Federal Information Clearinghouse for Exceptional Children, funded by the Bureau of Education for the Handicapped of the U.S. Office of Education.

The Digest serves three purposes:

1. It facilitates better understanding of legal language and the structure governing education of handicapped children in each state and at the federal level.
2. It serves as a basic reference for those seeking alternative legal patterns and for those conducting related research.
3. It provides a means for states to evaluate and compare their statutes with those of other states.

Part I presents, in digest form, the laws of the 50 states and the District of Columbia. Each state's laws have been organized along 11 subject categories—right to an education, population, identification and placement, administrative responsibility, planning, finance, administrative structure and organization, services, private school, personnel, and facilities. Citations are provided for those who may wish to refer to the original text of the laws.

Part II is a digest of federal laws having particular relevance to education of handicapped children. These laws are organized by statute rather than subject.

Other words of explanation are necessary.

While handicapped children are first of all children who are governed by and entitled to all of the benefits and guarantees provided by all state and federal laws, this digest is confined to those laws which pertain directly to the education of handicapped children. Therefore, the reader may wish to consult other sections of state and federal codes not cited in this document.

Since publication of the first edition last year, new avenues of legal activity regarding education of the handicapped have come into focus. Of particular note are the activities of the courts and attorney generals. Their rulings have in some states voided or re-interpreted existing law and in some cases created law. The reader may obtain information on such rulings through the State-Federal Information Clearinghouse for Exceptional Children at CEC headquarters.

Since publication of the first edition, over 800 bills have been introduced into state legislatures. Approximately 250 of these were enacted into law. This edition reflects these changes through September 1972. Very few changes occurred in federal law during this period; however, several laws that may be of importance to the reader have been added or expanded.

The reader interested in pursuing further issues in state law for the handicapped may wish to refer to several other CEC products:

State Law and the Education of Handicapped Children: Issues and Recommendations. This book discusses extensively some of the problems regarding state law and handicapped children and proposes several model statutes.

A Model Law for Handicapped Children. This is a media package of filmstrips, an audio tape, and printed material providing an overview of education for the handicapped and an in-depth exploration of several model statutes.

Change is occurring and the dream of education for all may become a reality in the coming years. We hope that the Digest and other CEC products will be of assistance to you in this endeavor.

Stella A. Edwards, Ed.D.
1972-73 President
The Council for Exceptional Children

October 10, 1972

ACKNOWLEDGEMENTS

As those who have worked with the law know, the process of monitoring, collecting and cataloguing statutes is often a complex and frustrating task. In the development of the "Digest of State and Federal Laws: Education of Handicapped Children," The Council for Exceptional Children's State-Federal Information Clearinghouse and Governmental Relations Unit have had assistance from a number of persons.

First, appreciation goes to the directors of special education in the 50 states and the District of Columbia. Secondly, special acknowledgement goes to Miss Lee Del Vecchio, the director and staff counsel of the Legal Department of United Cerebral Palsy Associations, Inc. and the CEC Publications Unit.

E.T.

PART I: STATE LAWS

ALABAMA

RIGHT TO AN EDUCATION

Constitution: "The Legislature shall establish, organize, and maintain a liberal system of public schools throughout the state for the benefit of the children thereof between the ages of seven and 21 years . . . ." (*Art. XIV, Sec. 256, Ala. Const.*)

Compulsory Attendance Law: A child whose physical or mental condition prevents or renders inadvisable attendance at school or application to study (and who has a certificate of exemption by the county superintendent of education if he resides in a district under the supervision of a city board), is exempt from the compulsory attendance requirements. Before an exemption certificate is issued, the superintendent must obtain a certificate saying that the child is physically and mentally incapacitated for school work. The certificate is signed by the county health officer in counties having a health unit or from a regularly licensed practicing physician in counties not having a health unit. (*Sec. 301 Ala. Stats.*)

Responsibilities: School boards shall provide at least 12 consecutive years of appropriate instruction and special services for exceptional children beginning with children six years of age. (*Sec. 2, Act 106, Laws of 1971*)

POPULATION

Definitions: "'Exceptional children' means persons between the ages of six and 21 who have been certified under regulations of the state board of education by specialists as being unsuited for enrollment in regular classes of the public schools or who are unable to be educated or trained adequately in such regular programs including but not limited to the mild and moderately to severely retarded, but not including the profoundly retarded; the speech impaired, the deaf and hearing impaired; the blind and vision impaired; the crippled and those having other physical handicaps not otherwise specifically mentioned herein; the emotionally conflicted; the socially maladjusted; those with special learning disabilities; the multiply handicapped, and the intellectually gifted." (*Sec. 1, Act. 106 Laws of 1971*)

"'Retarded' means having subaverage general intellectual functioning which (1) either originates during the developmental period or results from brain damage caused by disease or physical injury occuring subsequent to the developmental period, and (2) is associated with an impairment in adaptive behavior." (*Sec. 1, Act 106 Laws of 1971*)

Age of Eligibility: Children are eligible for special services between the ages of six and 21.

IDENTIFICATION AND PLACEMENT

Census: Within 120 days after July 22, 1971, all school boards must conduct a thorough survey of persons who, if when certified by specialists, would probably qualify as exceptional children. The survey must indicate each child's name, age, sex, and type of exceptionality. All data descriptive of an individual person, rather than a compilation which does not reveal specific information about a person, will be maintained in strict confidence and unavailable to anyone except the survey takers, appropriate superintendent and staff, the appropriate school principal, the individual child's parent or guardian, and any other person designated in regulations adopted by the state board of education. (*Sec. 4, Act 106, Laws of 1971*)

Screening: The department of education and the state board of health will jointly arrange for examining public school children for mental deficiency and any physical defects (which include diseases of the ear, eye, nose, throat, mouth and teeth, deformity of location of the hip joint, spinal disease, phymosis, hook worm disease, and any communicable or contagious diseases), if a local superintendent has reason to believe that the child has a communicable or contagious disease or any disease requiring medical and/or surgical aid to develop the children into strong and healthy individuals. (*Sec. 553, Ala. Stats.*)

Alabama Boys Industrial School, Alabama State Training School for Girls, The Alabama Institute for Deaf and Blind, department of mental health, state crippled children's service, the state board of health, and department of pensions and securities shall direct their field workers to review the case records on or before March 31 of each year and to report to the superintendent of the local school board the names and other pertinent information of all persons who might, if certified by specialists, be exceptional children in the school district and whose condition, in their opinion, might require special education services. (*Sec. 9, Act 106, Laws of 1971*)

Special Education Evaluation: "'Placement committee' means a committee so designated and appointed by the superintendent for determining the eligibility of exceptional children for placement in special school programs or classes, which committee shall be composed of representatives from the fields of medicine, education, and psychology whenever practicable. Said committee after study of all data available on each exceptional child shall make recommendations concerning each child's admission to a school program or class or withdrawal therefrom."

"'Specialist' means a physician, psychologist, psychometrist, or other professional personnel qualified pursuant to regulations established hereunder by the state board of education to examine children for purpose of determining whether they are exceptional children." (*Sec. 1, Act 106, Laws of 1971*)

No child shall receive special services unless he is properly classified as an exceptional child. The child's parents or guardian shall be informed of the reasons for this classification, and a copy of the report certifying the child's type of exceptionality will be kept on file in the office of the principal of the school in which the child is enrolled and any other places prescribed by regulation. (*Sec. 9, Act 106, Laws of 1971*)

The school board should utilize regular facilities by adapting them to the needs of exceptional children. No exceptional child will be segregated or taught apart from non-exceptional children until a study of the child's case has been made, with evidence obtained indicating that segregation would be for the exceptional child's benefit or is necessary because of the difficulties involved in teaching the child in a regular classroom. Whenever possible, placement will be on the basis of the placement committee's recommendation. The principal of the school in which an exceptional child is taught will keep a written record of the case history of each exceptional child showing the reason for any withdrawal of a child from the regular school program in the public school and his enrollment in or withdrawal from a special program. This confidential record is kept available for inspection by appropriate school officials and/or faculty at any time with the consent of the principal. (*Sec. 8, Act 106, Laws of 1971*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education will adopt as soon as possible after July 22, 1971, but in no event more than 120 days later, regulations covering:

1. Qualifications of specialists for each type of exceptionality and standards for certification of exceptional children;
2. Minimum standards of instruction and special services for each type of exceptionality at each age or grade level;
3. Reasonable qualifications for teachers, instructors, therapists, and other personnel needed to work with exceptional children;
4. Guidelines for suitable five-year incremental plans for implementation of the programs for various types of typical situations encountered by school boards, and
5. Any other necessary rules or regulations.

If the regulations of the board are amended, the amendments become effective 90 days after written notice of the amendments has been given to all local boards. (*Sec. 5, Act 106, Laws of 1971*)

The department of health is responsible for the operation of the school for the mentally retarded. (*Sec. 252, Ala. Stats.*)

The Alabama Institute for the Deaf and Blind is managed and controlled by a board of trustees consisting of the governor, state superintendent of education, and 12 other persons appointed by the governor and confirmed by the Senate. (*Sec. 520, Ala. Stats.*)

PLANNING

Within 120 days after the completion of the census (See Identification and Placement), each school board must adopt an incremental five-year plan, beginning with the September 1972 school year which implements a program of appropriate instruction and special services for resident exceptional children including a procedure for obtaining their certification by a specialist.

After adoption, the plan will be submitted to the state board of education for approval or disapproval in accordance with state board regulations. If it is approved, the school board must abide by it. Modifications of the plan must be approved by the state board. If the state board of education disapproves the plan, representatives of the state board will consult with the district in an effort to formulate a plan which can be approved. Plans and/or amendments will be disapproved only because minimum state board standards are not met. Reasons for disapproval must be stated.

If no plan can be agreed upon, the state board shall provide a plan which becomes binding unless the local board files, within 30 days, a suit in the circuit court of Montgomery County to restrain the enforcement of the plan on the grounds that it is arbitrary, impracticable, detrimental to the education of exceptional children, or invalid. Only the specified court will have jurisdiction on these suits. All suits will be given a preferred setting. (*Sec. 4, Act 106, Acts of 1971*)

The state board of education has the primary responsibility for enforcing compliance of the plans. If any local board fails or refuses to carry out its duties, the attorney general when requested by any private citizen shall bring civil suits in Montgomery County to require that such duties be performed. (*Sec. 5, Act 106, Laws of 1971*)

During the fifth year of implementation of the incremental five-year plan, each school board must submit a long-range plan, providing appropriate instruction and special services to exceptional children. Long-range plans are binding unless modified with state board approval. Such plans and modifications must be resubmitted to the state board of education for approval or disapproval at established intervals, but not less often than once every seven years or more often than once every two years.

Procedure for approving or disapproving, establishing and/or enforcing long-range plans will be in the same manner as for the incremental five-year plans. The long-range plan must include provisions for: (1) establishment of special education classes, instruction, curricula, facilities, equipment, special services, utilization of teachers and other personnel; (2) attendance requirements for exceptional children; (3) services for exceptional children whose condition will not permit them to profit or benefit from any kind of school program such as day care, recreation programs, and other services and facilities, and (4) payment of tuition and other costs for attendance at appropriate semi-public or private schools or institutions which provide appropriate services for all exceptional children such as the Children's Center in Montgomery and the Opportunity Center School in Birmingham. (*Sec. 6, Act 106, Laws of 1971*)

FINANCE

Required public school instruction and special services for exceptional children shall be made available at public expense for each school year. The funds for such instruction and special services are derived from state, county, municipal, district, federal, or other sources or any combination of sources. All school boards are required to set aside from their revenues from all sources amounts necessary to provide special services, for exceptional children. If insufficient funds are available to school boards to fully provide for exceptional children as well as to provide for the educational needs of non-exceptional children, the board must prorate all funds on a per capita basis between exceptional and non-exceptional children. No matriculation, tuition, or other fees or charges will be required or asked of exceptional children or their parents or guardians, unless such fees or charges are made uniformly for all public school pupils. (*Sec. 3, Act 106, Laws of 1971*)

Teacher units will be allocated on the following basis:

1. For each group of between eight and 15 exceptional children who are taught by a properly qualified full-time teacher in a special class or who are taught individually as homebound or hospitalized children unable to attend school for the major portion of the year, one teacher unit shall be allowed. The minimum number of pupils may be reduced to five if instruction of a larger number would not be feasible or practicable. One-fifth of a unit may be authorized for each exceptional child taught in communities where fewer than five exceptional children are in need of special instruction;

2. For each qualified member of the instructional staff devoting full time to the instruction of exceptional children in regular or special school programs, one teacher unit will be allowed;

3. For instructional services provided by a qualified teacher or teachers of exceptional children who are unable to attend school because they are homebound or hospitalized, one teacher unit is allowed for each 900 instruction hours. A proportionate part of one unit will be allowed for less than 900 hours;

4. Upon conclusion of the five-year plan, the state school board shall allocate teacher units to public state institutions providing residential care for exceptional children in the same manner as those provided for public schools to the extent that appropriations for teacher units are not otherwise provided for by law. (*Sec. 7, Act 106, Laws of 1971*)

As authorized by regulations of the state board, districts may receive, in lieu of the amount calculated on the basis of daily attendance and otherwise authorized by law, 80 percent of the cost of transportation for each bus used exclusively for the purpose of transporting eight or more exceptional children unable to ride regular buses. A proportionate amount will be allowed for a vehicle used exclusively for transporting a smaller number of exceptional children (less than eight) to and from school. (*Sec. 11, Act. 106, Laws of 1971*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Districts may jointly provide services to exceptional children. (*Sec. 6, Act 106, Laws of 1971*)

SERVICES

"'Special services' means services relating to instruction of exceptional children (but not including the instruction itself) including, but not limited to: administrative services; transportation; diagnostic evaluation services; social services; physical and occupational therapy; job placement; orientation and mobility training; braillist services and materials; typists and readers for the blind; special materials and equipment; and such other similar personnel, services, materials, and equipment as may from time to time be approved by regulations adopted hereunder by the state board of education." (*Sec. 1, Act 106, Laws of 1971*)

The state superintendent of education is authorized to purchase and arrange for distribution to school boards previously adapted text books, equipment, and materials prepared in various resource and media centers for the use of certain children. These children are those with vision and hearing impairments and other special learning disabilities enrolled in the public schools or whose tuition and expenses in other schools are being paid by the school board under the provisions of this act. (*Sec. 10, Act 106, Laws of 1971*)

PRIVATE

Children may be educated in a semi-public or private school. The payment per exceptional child will not exceed the average per pupil appropriation for all exceptional children in a school district including an allowance for teacher units, transportation and, all other aids for exceptional children. Only children whose needs cannot be met in the schools may use this program. It is further limited to private institutions approved or accredited for training of exceptional children by the state board. Institutions not meeting minimal standards will not be eligible, by direct or indirect means, to receive state funds. Also, no funds will be expended for training in any school or institution outside the state of Alabama. (*Sec. 6, Act 106, Laws of 1971*)

PERSONNEL

The state board of education may make training grants to professional personnel seeking special training in exceptional child education to qualify them to meet state board regulations for personnel. Grants are limited to personnel under contract to work in the exceptional child program in the state, the training schools, the child training centers, and at various residential facilities for exceptional children throughout the state. The grants, for contractual periods as specified by the state board of education, are made to regular students planning to work in the state's exceptional child program if they sign a commitment (satisfactory to the state board) that they will take any appropriate, available job at any location within the state upon graduation or completion of their study. These commitments will be binding upon those who sign them and receive scholarship aid, but the state board may waive enforcement in the case of extreme and unforeseen hardships.

Each grant will cover the cost of tuition, housing, and food. The courses for which scholarships may be made available are most often on the campuses of the state higher educational institutions. If courses are not offered within the state in the areas requiring certification in exceptional child education, the recipient may receive a grant for attending an out-of-state institution of higher learning approved by the state board. (*Sec. 12, Act 106, Laws of 1971*)

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

ALASKA

RIGHT TO AN EDUCATION

Constitution: "The legislature shall, by General Law, establish and maintain a system of public schools open to all children of the state and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institutions." (*Art. VII, Sec. 1, Alas. Const.*)

Compulsory Attendance Law: Children between ages seven and 16 are required to attend the public schools of the state, and the parents or guardians of such children are responsible for insuring their attendance. The requirement is waived if: 1. the child's physical or mental condition makes attendance impractical, as determined by a competent medical authority; 2. the child is in the custody of the court or a law enforcement authority, or 3. the child is temporarily ill or injured.

A child may be suspended or denied admittance because of 1. behavior which is inimical to the welfare, safety, or morals of other pupils; 2. a physical or mental condition which, in the opinion of competent medical authorities, renders the child unable to reasonably benefit from the available programs, or 3. a physical or mental condition which, in the opinion of competent medical authorities, will cause the attendance of the child to be inimical to the welfare of other pupils. If a child has been suspended or denied admittance because of reasons 2 and 3 above, he will be permitted to attend school only when he is obviously recovered or when a written statement by a competent medical authority to the local school board states that the child is no longer afflicted with or suffers from the physical or mental condition to the extent that it is a cause for suspension or denial of admission. (*AS 14.30.010, 14.30.045, and 14.30.047*)

Policy: "It is the purpose of sections 180-350 of this chapter to provide competent education services for the exceptional children of legal school age in this state for whom the regular school facilities are inadequate and not available."

Responsibilities: All city or borough school districts must provide special services when at least five exceptional children of any one type are residents. (*AS 14.30.186*)

POPULATION

Definitions: "'Exceptional children' means children who differ markedly from their peers to the degree that they are better served by placement in a special learning program, designed to serve their particular exceptionality; these children may be identified in the following categories:

"'mentally retarded' includes those children of educable and trainable mind who consistently demonstrate evidence of reduced academic achievement or social behavior and whose intellectual potential indicates restriction significantly below that of their peers;

"'physically handicapped' includes children whose known or diagnosed physical impairments are so severe or involved that special facilities or equipment or methods are needed to make their educational program effective;

"'emotionally handicapped' includes children whose known emotional impairment is so severe or involved that special facilities, equipment, or methods are needed to make their educational program effective;

"'children with learning disabilities' includes those who exhibit disorders in one or more of the basic learning processes involved in comprehending or using expressive or receptive language and who may require special facilities, equipment, or methods to make their educational program effective;

"'gifted' includes children having outstanding intellect, ability, or creative talent; programs or services beyond the level of those ordinarily provided as regular school programs shall be submitted to the department for supplemental funding on an approved program basis;

"'multiple handicapped' includes children whose known or diagnosed handicaps are determined to be any combination of this paragraph, whose needs demand the provision of special facilities, equipment, or methods to make their educational program effective." (*AS 14.30.351*)

Age of Eligibility: Children are eligible for special services at legal school age, i.e. five to 19 years of age. (*AS 14.30.180*)

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: A local special education administrator or the parent or guardian of an exceptional child may apply for a child's enrollment in a special education program. If the administrator applies, he must have parental consent. The application is then forwarded to the local school board who, in turn, forwards it to the commissioner of education. The commissioner has the final responsibility for certifying the child for a special education program. (*AS 14.30.330*)

If a parent or guardian of a handicapped child can certify that the child is receiving adequate educational advantages to the satisfaction of the local school board, enrollment in a special education program is not required. (*AS 14.30.340*)

ADMINISTRATIVE RESPONSIBILITY

The department of education is the chief administrative agency and, in conjunction with the local agencies, shall establish standards relative to special programs. The department will formulate, cooperatively with the department of health, the diagnostic standards for the identification and classification of exceptional children. (*AS 14.30.191*)

The seven-member board of directors of the state school system has exclusive control of schools in the system, subject to the regulations of the commissioner and board of education. (*AS 14.08.090*)

The department of health and welfare shall be responsible for the management of the state institutions. (*AS 44.29.020*)

PLANNING

An advisory committee, established by the commissioners of education and health and welfare, provides information and guidance for development of appropriate programs and services for exceptional children. The committee is composed of, but is not limited to, persons representing local education agencies, state agencies, parent groups, and organizations concerned with programs and services for exceptional children. (*AS 14.30.231*)

FINANCE

Units are granted to districts conducting special education programs on the following schedule:

Average daily membership	*No. of instructional units*
5 – 8	1
9 – 15	2
16 – 23	3
24 – 32	4
33 and over	4 plus 1 for each 9 pupils or fraction of 9.

(*AS 14.17.041*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

An exceptional child may be sent to classes in another school district with the consent of his district or the state operated school, if he resides in a district or school attendance area with no provision for classes or if existing classes are inappropriate for his needs. (*AS 14.30.287*)

The commissioner of education determines the feasibility of a child attending a special class elsewhere in the state or in another state. (*AS 14.30.295*)

A child may be sent to another state for special education services if the child's district of residence or school attendance area has no provision for classes appropriate to his needs.

If enrollment out of state is approved by a school district or the state director of the state operated system and the commissioner, the child's expenses are paid as follows:

1. the school district or board of the state operated schools pays an amount equal to the local per pupil contribution,
2. the board of the state operated schools pays (a) 75 percent of the annual cost of the child's education or (b) an amount that when added to the local contribution equals the total cost of the child's education, whichever is less but not exceeding $6,000, and
3. the parent or guardian of the child pays any remaining cost, unless it is determined that the parent or guardian is unable to pay. In that case the remainder is borne by the local school district or board of the state operated schools. (*AS 14.30.295*)

SERVICES

"'Special services' means but is not limited to transportation, special teaching, corrective teaching, corrective health habits, and the provision of special seats, books, teaching supplies, facilities, equipment required for the instruction of exceptional children, and includes education and training for children who cannot utilize regular classroom instruction." (*AS 14.30.351*)

Transportation is provided to exceptional children, without any minimum distance requirements. When it is provided, exceptional children, whenever practicable, must be carried in vehicles separate from those children attending regular classes. (*AS 14.30.147*)

School districts may provide instructional services to exceptional children who are hospitalized or confined to their homes. A child must receive at least 10 hours instruction each week in order to be counted as a pupil in the average daily attendance membership for state aid purposes. (*AS 14.30.305*)

A department of health and welfare program gives assistance to groups of organized parents to provide evaluation and special training of exceptional children who do not come within the laws relating to special education because of their age or severity of handicap. Exceptional children in this context mean those who are physically handicapped and those who are educable and trainable mentally retarded. In order to qualify for aid, the parents must arrange for the necessary facilities and equipment for training centers for at least five children.

The services provided for those with special handicaps include nursery or preschool training in order to prepare children (when possible) for admission into special classes or regular school, or training in self-help, safety, social, and occupational skills for trainable mentally retarded children of school age who are incapable of academic subjects. (*AS 47.20.10–47.20.50*)

Teachers of the handicapped must have a valid teaching certificate and any other training that the department of education may require. During the first year that special services are offered in a local district or a state operated school district, the local governing board or the state department may waive part of the qualifications for teachers of exceptional children. Persons qualified to serve as substitute teachers may serve as teachers of classes for exceptional children. (*AS 14.30.250–14.30.270*)

Psychologists must meet the minimum standards in the state's classification plan for psychologists as well as any other requirements that the department of education may establish. (*AS 14.30.280*)

A special appropriation from the general fund may be utilized to contract for services for the profoundly deaf. (*House Bill 706, 1972*)

PRIVATE

Statutes contain no specific provision for the handicapped in this area.

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

ARIZONA

RIGHT TO AN EDUCATION

Constitution: "The legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system, which system shall include kindergarten schools, common schools, high schools, normal schools, industrial schools, and universities (which shall include an agricultural college, a school of mines, and such other technical schools as may be essential, until such time as it may be deemed advisable to establish separate state institutions of such character). The legislature shall also enact such laws as shall provide for the education and care of the deaf, dumb, and blind." (*Art. XI, Sec. 1 Ariz. Const.*)

"Provision shall be made by a law for the establishment and maintenance of a system of public schools which shall be open to all the children of the state and be free from sectarian control." (*Art. XX, Ordinance 2 Ariz. Const.*)

Compulsory Attendance Laws: All persons having custody of a child between ages 8 and 16 must send the child to the public schools for the full time school session. Parents may be excused from sending their child to school by the board of trustees, if it is shown to the satisfaction of the board and the county school superintendent that the child is in such a physical and mental condition that attendance at public school is either inexpedient or impracticable. (*Sec. 15-321 ARSA*)

Responsibilities: The governing body of a school district or the county superintendent of schools may establish special programs for the education of exceptional children. (*Sec. 15-1015 ARSA*)

POPULATION

Definitions: "(1) 'Exceptional Child' means a gifted child or a handicapped child.

"(2) 'Gifted child' means a child of lawful school age who, due to superior intellect, advanced learning ability or both, is not afforded an opportunity for otherwise attainable progress and development in classroom instruction and who needs special instruction, special auxiliary services, or both, to achieve the levels commensurate with his intellect and ability.

"(3) 'Handicapped child' means a child of lawful school age who, due to physical, mental, or emotional characteristics or a combination thereof is not afforded the opportunity for all around adjustment and progress in regular classroom instruction and who needs special instruction, special auxiliary services, or both, to achieve at levels commensurate with his abilities. Handicapped children include the following:

"(a) 'educable mentally handicapped' means a child who, because of his intellectual development, as determined by evaluation pursuant to Section 15-1013, is incapable of being educated effectively through regular classroom instruction, but who is capable of achieving a degree of proficiency in basic academic skills and as a result of special education, may become economically productive and socially adjusted;

"(b) 'emotionally handicapped' means a child who, because of his social or emotional problems, as determined by evaluation pursuant to Section 15-1013, is unable or incapable of meeting the demands of regular classroom programs in the public school and requires special classes or special services designed to promote his educational growth and development;

"(c) 'homebound' or 'hospitalized' means students who are capable of profiting from academic instruction but who are unable to attend school due to illness, disease, accident, pregnancy or handicapping conditions, who have been examined by a competent medical doctor and are certified by that doctor as being unable to attend regular classes for a period of not less than three school months;

"(d) 'multiple handicapped' means a child who has serious learning and developmental problems resulting from multiple handicapping conditions as determined by evaluation pursuant to Section 15-1013, and who cannot be provided for adequately in a regular class;

"(e) 'physically handicapped' means a child who has a physical handicap or disability, as determined by evaluation pursuant to Section 15-1013, which impedes his education progress in a regular classroom situation and whose intellectual development is such that he is capable of being educated through a modified instructional environment;

"(f) 'specific learning disabilities' means the condition of a child who exhibits a significant discrepancy between ability and achievement as determined by evaluation pursuant to Section 15-1013. The specific learning disability may be manifested by perceptual handicaps, brain injury, minimum brain dysfunction, dyslexia, developmental aphasia, but excluding learning problems which are due primarily to visual, hearing or motor handicaps, mental retardation, emotional disturbance, or due to environmental disadvantage;

"(g) 'speech handicapped' means a child whose speech differs, as determined by evaluation pursuant to Section 15-1013, to the extent that it calls attention to itself, interferes with communication, or causes the child to be maladjusted;

"(h) 'trainable mentally handicapped' means a child who because of his intellectual development, as determined by evaluation pursuant to Section 15-1013, is incapable of being educated in regular classroom instruction or educable mentally handicapped classes and who meets the following criteria:

(i) physically capable of attending school and benefiting from the school experience;

(ii) able to communicate to the extent that he can make his wants known and can understand simple directions." (*Sec. 15-1011 ARSA*)

Age of Eligibility: Children may receive services from age five to 21.

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: Before a child is placed in a special education program, evaluation of his capabilities and limitations must be made. If a child is referred for evaluation concerning possible placement in special education, the evaluation must be conducted under the direction of the school district or county chief administrative official or their representatives who have responsibility for special education, after consultation with the parent or guardian. The evaluation must be made by at least one professional specialist in the field relevant to the child's handicap. If appropriate, the educational implications of the child's handicapping condition will be evaluated by a psychologist. The evaluation results and recommendations will be submitted in writing to the chief administrative official of the school district or county or to the person designated as responsible for special education.

Before determining placement, the chief administrative official of the district or county or the person responsible for special education must consult with the following persons: 1) the school principal; 2) the person responsible for administering or conducting special education courses in the school or school district; 3) a teacher who has currently been instructing the child; 4) an appropriate professional advisor who may be a physician, psychologist, professional social worker or school nurse, and 5) the parent or guardian of the child.

The child is then placed in a special education program by the chief administrative official of the county or district or the person designated by him as responsible for special education. No child will be retained or placed in the special education program without the approval of his parents or guardians. (*Sec. 15-1013 ARSA*)

Once each semester, the chief administrative official of the school district or the person responsible for special education shall review placements of children in special education programs, if requested by a parent or guardian or upon recommendation of the person conducting the special education program. Results of the review are submitted to the person making the request or recommendation. (*Sec. 15-1014 ARSA*)

All persons having control of a child, who is between ages six and 18 and who is unable to attain an education in the public schools of the state because of partial or total blindness, deafness or defective speech, must send the child to the school for the deaf and blind unless the child is being privately educated or is not a fit subject for admission to the school for the deaf and blind. (*Sec. 15-835 ARSA*)

A parent, guardian, or other person having charge of a school age child and who refuses to send the child who is physically and mentally qualified to the state school for the deaf and blind shall be fined from $5 to $25 and may be imprisoned from five to 90 days. (*Sec. 15-836 ARSA*)

ADMINISTRATIVE RESPONSIBILITY

The division of special education is created to administer the special education program under the direction of the state superintendent of public instruction. The director of the division is appointed by the superintendent with the consent of the state board of education. Responsibilities of the director are determined by the state board. A master's degree in education and experience in special education are necessary to be eligible for appointment as director. (*Sec. 15-1012 ARSA*)

The department of mental retardation is in charge of the institutions for the mentally retarded. (*Sec. 8-404 ARSA*)

The state board of hospitals administers the educational program in the institution for the emotionally disturbed.

Schools for the deaf and blind are under the administration of the board of trustees which consists of the governor as an ex-officio member and three members he appoints. (*Sec. 15-811 ARSA*)

PLANNING

Statutes contain no specific provision for the handicapped in this area.

FINANCE

If the county superintendent of schools has established (with the approval of the division of special education) special education programs in county accommodation schools or has cooperated with other school districts for the provision of special services, he submits an estimate of the current year's tuition cost to each district which has signed an agreement to use the services of the accommodation school at the beginning of the next year's term. Tuition shall be the estimated per capita cost, based on the number of pupils each school district estimates to enroll in the program. The school district pays the tuition in advance quarterly payments on July 1, October 1, January 1, and April 1. During the school year, increases in enrollment over the district's estimate will cause the tuition charge to be adjusted. In the event of over-payment, adjustment is made at the close of the school year. (*Sec. 15-1015 ARSA*)

Although the total enrollment of the special education programs of the school district or county may be increased annually, the increase may not exceed 20 percent of the total average daily attendance (ADA) in all special education programs of the school district or county during the previous year. The daily attendance of speech handicapped children (not exceeding 90 for each speech therapist) who, during the preceding year received speech therapy from a certified speech therapist employed by the school district or county, shall be included when determining the growth limitation. The limitation does not apply to school districts or counties having a total ADA in its special education programs of less than 100 pupils. No child may be counted in the ADA computation for more than one category for the purpose of the growth limitation. The 20 percent limitation does not apply in the year during which a program for speech handicapped, learning disabled, or gifted pupils is initiated. (*Sec. 15-1015 and 15-1018 ARSA*)

The state board of education may accept gifts or money from public and private organizations for the division of special education if the purpose of the gift as specified by the donor is approved by the board and is within the scope of the board's powers and duties. A fund is established for the placement of these monies and is designated as the exceptional children's special education fund. (*Sec. 15-1016 ARSA*)

On the basis of the records of the superintendent of public instruction, the legislature appropriates the following amounts, based on the average daily attendance of each student in special education classes:

a. $380 per student in ADA for educable mentally handicapped pupils;
b. $380 per student in ADA for emotionally handicapped pupils;
c. $526 per student in ADA for homebound pupils;
d. $590 per student in ADA for multiply handicapped pupils;
e. $380 per student in ADA for physically handicapped pupils;
f. $690 per student in ADA for the trainable mentally handicapped;
g. $50 per student in ADA for gifted pupils, and
h. $380 per student in ADA for specific learning disabled pupils.
i. Fifty dollars will be appropriated for each speech handicapped pupil receiving services, although no more than 90 pupils per certified speech therapist employed by a school district or county may receive the allotment.

In addition, the county shall provide the following amounts per student ADA for each special education student taught by school districts: $10 per student in ADA for educable mentally handicapped, homebound, emotionally handicapped, multiple handicapped, specific learning disabled, and trainable mentally handicapped pupils.

The district's apportionments are computed on the basis of the estimated number of special education students to be taught during the current year in those programs with a minimum of 240 minutes of instruction or work experience in each school day. A child receiving instruction under the homebound teaching program is considered in full attendance if he receives instruction for at least four hours each week. Any additional special education cost not provided for under the provisions of this section will be met by the servicing school district or by the county, in the case of the county special education program. (*Sec. 15-1017 ARSA*)

After fiscal year 1970-71, the total of state and county assistance to which a school district or county is entitlted cannot increase more than 20 percent over the amounts received the previous year. The limitation does not apply to a school district or county having a total ADA in special education of less than 100 pupils. (*Sec. 15-1017 ARSA*)

Growth in general education is restricted to six percent over the previous year's amount, but the excess cost per student in special education is exempted from this limitation. (*Sec. 15-1017 ARSA*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The governing body of a school district or the county superintendent of schools may establish special education programs for exceptional children in cooperation with another district or districts. If two or more governing bodies provide services by joint agreement, they may establish a written agreement for the provision of such services. In the agreement, one governing body administers the program in accordance with the contract. Tuition students may be included in the agreement. (*Sec. 15-1015 ARSA*)

Those school districts which do not provide special programs may petition the county superintendent of schools. The superintendent may, with the approval of the division of special education, establish special education services under the rules and regulations of the division of special education.

School districts or county superintendents may contract with other approved public or private agencies inside or outside of the district for the education of exceptional children in accordance with the rules and regulations of the division of special education. (*Sec. 15-1015 ARSA*)

SERVICES

"'Special education' means the adjustment of the environmental factors, modifications of school curricula, and adaptation of teaching methods, materials, and techniques to provide educationally for those children who are gifted or handicapped to such an extent that they do not profit from the regular school curricula or need special education services in order to profit. Difficulty in writing, speaking, or understanding the English language due to an environmental background wherein a language other than English is spoken primarily or exclusively shall not be considered a sufficient handicap to require a special education." (*Sec. 15-1011 ARSA*)

The governing body of a school district or the county superintendent may employ, if necessary, special personnel including a director of special education for the operation of special education programs for exceptional children.

The school district or the county superintendent of schools may also establish work experience programs following the rules and regulations of the division of special education. These programs shall consist of classroom instruction, evaluation, training, and part-time employment. Evaluation, training, and part-time employment may take place on and off the school campus, under the supervision of certified school personnel. Students in the program must be at least age 16. Attendance in the program will be counted as attendance at school in order to qualify for state reimbursement. The state division of special education must approve all work experience programs.

Special education programs may be conducted only in facilities housing regular education classes or other facilities approved by the state division of special education. (*Sec. 15-1015 ARSA*)

Among the services provided by the department of mental retardation are: consultation and guidance for the retarded and their families, residential care, preschool programs for residential and day students, and day care services for school age children who are not eligible for public schools for residential and day children. (*Sec. 8-44 ARSA*)

The board of directors for the Arizona State School for the Deaf and the Blind has established a branch elementary day school in the Phoenix area. (*Sec. 15-851 ARSA*)

Any blind person enrolling in the University of Arizona or any recognized college in the state may apply to the board of directors of the school for the deaf and blind for a reader to assist in his studies. If the application is approved, the board of the school may provide him with a reader at a cost not exceeding $600 in any one calendar year. (*Sec. 15-805 ARSA*)

PRIVATE

School districts or county superintendents of schools may contract with approved public or private agencies inside or outside of the district for education of exceptional children in accordance with the rules and regulations of the division of special education. (*Sec. 15-1015 ARSA*)

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

ARKANSAS

RIGHT TO AN EDUCATION

Constitution: "Intelligence and virtue being the safeguards of liberty and bulwark of a free and good government, the state shall ever maintain a general suitable and efficient system of free schools whereby all persons in the state between the ages of 6 and 20 years may receive gratuitous instruction." (*Art. 14 Sec. 1, Ark. Const.*)

Compulsory Attendance Law: Compulsory school attendance requirements for children between the ages of seven and 15 are waived for children who are mentally or physically incapacitated for performing school duties. (*Sec. 80-1504 Ark. Stats.*)

Every parent, guardian or other person having control of any mentally normal minor over age eight who has defective hearing or sight to the extent that he is not benefited by instruction in the public schools must send such child to the state schools for the deaf and the blind. The child must attend the schools for at least 32 weeks of each year until he has completed the course of instruction at the school, or until he has been discharged by the superintendents of the schools. (*Sec. 80-2401 Ark. Stats.*)

Children will be excused from this provision if they are receiving instruction by a private tutor or at another approved school, if they are physically incapable of performing school work, or for any other reason which is deemed sufficient by the superintendent of schools. (*Sec. 80-402 Ark. Stats.*)

Policy: "The purpose of this act is to provide competent educational services for exceptional children of the state as defined in this act for whom the regular public facilities are not available or are not adequate to meet the specialized needs of these children." (*Act 39 of 1971*)

Responsibility: If, in any school district, properly interested persons, agencies, parents or guardians, of five or more of any one type of exceptional child, petition the board of education to establish a special class, the school authorities must request the state board to cooperate in the establishment of such a class. In districts where there are an insufficient number of children for the organization of a special class, exceptional children may be entered in special classes of any other district on a plan acceptable to both distrcts and the state board. (*Act 39 of 1971*)

POPULATION

Definitions: "The term 'exceptional children' means retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, crippled, specific learning disabled, or other health impaired children who by reason thereof, require special education and related services." (*Act 39 of 1971*)

Age of Eligibility: Children may receive special education services from age five to 21. (*Act 39 of 1971*)

IDENTIFICATION AND PLACEMENT

Screening: Boards of directors of school districts may hire one or more physicians or nurses to conduct physical examinations in the public schools. The examination shall be restricted to detecting contagious diseases or any defective sight, hearing or function or condition of health that would prevent the pupil from receiving the full benefit of school work. These examinations should be conducted at least once every school year. Teachers may make the test of sight and hearing under regulations prescribed by the state board of education. (*Sec. 80-1219 Ark. Stats.*)

Special Education Evaluation: An evaluation by competent medical, psychological, psychiatric, or other clinical persons recognized by the state board of education is necessary to determine the existence of a handicap. The state board of education sets the eligibility requirements for special education. (*Act 39 of 1971*)

Children may be admitted to special education services, and/or discharged from them on the recommendation of a physician under whom they are being treated or by medical, psychological, psychiatric, or therapuetic experts, chosen or approved by the board. (*Act 39 of 1971*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is authorized to initiate, inspect, approve, and supervise a program of education for exceptional children. It is also the agency to cooperate with the state and federal government, approve treatment centers and local schools to carry out the special education provisions. The board is responsible for making the necessary rules and regulations to carry out the educational programs, and, contingent upon available funds, employ the necessary personnel at the state level for the administration of the act. (*Act 39 of 1971*)

Courses of study, teacher pupil ratio, adequacy of methods of instruction, training qualifications of teachers, therapists, educational examiners, and technicians as well as necessary equipment for special education programs must comply with the standards of the board of education. (*Act 39 of 1971*)

The board may contract with local or county boards of education and with boards of other institutions under the public board of commissioners to provide the services to exceptional children as delineated in part B of P.L. 91-230 (Grants to States). (*Act 39 of 1971*)

The schools for the deaf and blind are under the supervision of a joint board of trustees which is subject to the administration of the state department of education. (*Sec. 80-2301 and 2207 Ark. Stats.*)

The state hospitals' association administers the program for the emotionally disturbed.

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

A district desiring to operate a special education program must apply to the board prior to the opening of the schools for approval of services. The approved application for a district serves as a contract between the district and the board to supply the approved funds. Unless specifically provided in an application, no mingling of state funds with federal funds is allowed. If the number of applications exceeds available funds, the board is responsible for the proration of funds to the districts.

Payment for home or bedside instruction will be distributed according to rules and regulations of the board. The state treasurer and the board are authorized to pay to treatment institutions the total cost of the program that has been agreed upon by the board and the governing board of each institution-school. No part of the payment from this act may be used to pay for school buildings, premises or plants. (*Act 39 of 1971*)

Funds may be used in the following manner: 1. as payments to local school districts in keeping with approved applications; 2. as payments to treatment institutions in keeping with approved applications; 3. for purchase of specialized equipment, and 4. for allowances to school districts and institutions for the administrative cost of the program.

State aid will be in the form of reimbursement or advance payment to local districts based on a schedule established by the board for the following categories: special class units, speech therapy units, homebound instruction, educational examiners, and special education administration. (*Act 39 of 1971*)

Local boards of education and treatment institutions must annually report to the board all monies expended for special education programs. Boards must also report the average daily attendance of the students enrolled, including pupils instructed by home teachers and the number of clock hours devoted to such work. (*Act 39 of 1971*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more school districts may join together to establish special classes. One district may be designated as the controlling agent. All reimbursement for the eduation of the exceptional children from the board will be made to the controlling district. Local revenues or tuition from other districts participating in the cooperative will be paid to the controlling districton an accepted, prorated formula per child. (*Act 39 of 1971*)

In districts where there is not a sufficient number of children to organize a special class, children may be entered in special classes in other districts if the plan is acceptable to both districts and the board. (*Act 39 of 1971*)

SERVICES

The state board of education may establish hospital and convalescent classes in treatment institutions and pay the total cost of the educational programs. (*Act 39 of 1971*)

All personnel employed by the school districts conducting special classes must adhere to the qualifications and training prescribed by the board. (*Act 39 of 1971*)

State aid may be used for the establishment of classes in school districts, for classes in treatment institutions, for the purchase of specialized materials and equipment, for homebound instruction, and for speech therapy.

Graduates of the state school for the blind who are regularly enrolled students in a university, college, conservatory of music, or technical institution may, under the direction of the superintendent of the school for the blind, receive funds for a reader while in attendance at the university. No more than $750 may be spent for reader services on any one person during any fiscal year. (*Sec. 80-24-28 Ark. Stats.*)

The state school for the blind may expend any available funds for the purpose of sending children (who are under the age of 21, who are both deaf and blind, and for whom there are no facilities in the state) to any school, institution, or other place outside the state having an approved program in the education for such children. The funds may be spent for room or tuition or transportation and any other necessary items. (*Sec. 80-2401.1 Ark. Stats.*)

PRIVATE

See Services for treatment institution programs and for the program for deaf-blind children.

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

CALIFORNIA

RIGHT TO AN EDUCATION

Constitution: The legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year. (*Art. IX, Sec. 5, Cal. Const.*)

Compulsory Attendance Law: Children whose physical and mental condition prevents or renders inadvisable school attendance or application to study are exempted from the compulsory education requirement, but the governing board of the school district may require satisfactory evidence of the condition to be furnished. (*Sec. 12152, Cal. Ed. Code*)

The administration of each private school and public school district of any county must, upon severing the attendance of or denying admission to any child who is physically handicapped, mentally retarded, multiple handicapped, or otherwise subject to the compulsory education laws, report such "severance, expulsion, exclusion, exemption, transfer, or suspension" lasting more than 10 days to the county superintendent. The report must include names, ages, last known addresses, and the reasons for action. The county superintendent is responsible for examining reports and drawing the attention of the county board or local school district board to any cases in which the interest of the child or the welfare of the state may need further examination. After preliminary study of available information the county board may, on its own action, hold hearings on these cases in the manner prescribed by law. (*Sec. 12104, Cal. Ed. Code*)

Any child who is blind, deaf, partially blind, or hard of hearing to such extent that he is incapable of receiving instruction in regular elementary or secondary schools but whose mental condition permits application of study is exempted from the compulsory attendance requirements if he is a resident of a city and county school district not maintaining appropriate special classes, and if he is ineligible for admission to the state schools for the blind or the deaf. The county superintendent must approve the exemption. (*Sec. 12156, Cal. Ed. Code*)

All parents, guardians, or other persons having control of any child between the age of five and 20 who (because of deafness or impaired hearing) is unable to benefit by regular public school instruction, shall send the minor to a school or class for the deaf maintained by the school district or by the state for a full school year. The child must attend the school or class until completion of the prescribed course of study or until discharged by the principal or any other person in charge of the school or class with the approval of the governing board. (*Sec. 12801, Cal. Ed. Code*)

Responsibilities: Any mentally retarded, physically handicapped, or multiply handicapped minor is entitled to training or an education free of charge in the public schools of this state. (*Sec. 6920, Cal. Ed. Code*)

Education shall be provided to mentally retarded children of compulsory school age who are expected to benefit from special education facilities designed to make them economically useful and socially adjusted. Special education may be provided to mentally retarded children below compulsory school age (five years, nine months and eight years of age) and those above compulsory school age but less than 21 years old. (*Sec. 6902, Cal. Ed. Code*)

Education shall be provided to mentally retarded children not included in the above section between the ages of eight and 18 who may be expected to benefit from special education facilities to further their individual acceptance, social adjustment, and economic usefulness in their homes and within a sheltered environment. The education may be provided to these children who are between the ages of five and eight. If any such child becomes 18 years of age while attending a special training school or class, he is permitted to attend the school or class for the remainder of the current school year. (*Sec. 6903, Cal. Ed. Code*)

Governing boards of any elementary, unified, or high school district with an average daily attendance (ADA) of 900 or more shall provide education in special schools or classes for educable mentally retarded children who are not attending other special training schools or classes maintained under the provisions of Section 6901-6913, inclusive. Governing boards of any elementary, unified, or high school district having an ADA of 8000 or more shall provide for the education of severely mentally retarded children not attending any other training classes or schools. (*Sec. 6904, Cal. Ed. Code*)

With the approval of the county superintendent, governing boards of any unified or high school district with an ADA of less than 8000 may provide training in special training schools or classes for severely mentally retarded children. (*Sec. 6904, Cal. Ed. Code*)

Governing boards of unified or high school districts with ADA's of 900 or more shall provide a secondary program for each educable mentally retarded child residing in the district and for whom the district is required to provide an education and special training schools. (*Sec. 6904.5, Cal. Ed. Code*)

Governing boards of any high school district with an ADA of less than 900 may establish and maintain special training schools and classes for educable mentally retarded children as may be admitted to the schools and classes by the governing board of the district. (*Sec. 6905, Cal. Ed. Code*)

County superintendents of schools shall establish and maintain special training schools or classes for mentally retarded children residing in counties and elementary unified districts with an ADA of less than 901 in the elementary schools.

The county superintendent of schools shall establish or maintain special training schools or classes for the severely mentally retarded residing in the county in an elementary or unified school district with an ADA of less than 8,000. (*Sec. 8901, Cal. Ed. Code*)

Elementary, unified, and high school districts having an average daily attendance of less than 8000 may establish programs for the physically handicapped. (*Sec. 894, Cal. Ed. Code*)

POPULATION

Definitions: "Any minor who, by reason of a physical impairment, cannot receive the full benefit of ordinary education facilities, shall be considered a physically handicapped individual for the purposes of this chapter. Such minors include the following, as defined by the state board of education: a) the deaf or hard of hearing; b) the blind or partially seeing; c) orthopedic or health impaired; d) the aphasic; e) the speech handicapped; f) other minors with physical illnesses or physical conditions which make attendance in regular day classes impossible or inadvisable; g) minors with physical impairments for severe as to require instruction in remedial physical education; h) multi-handicapped." (*Sec. 6802, Cal. Ed. Code*)

" 'Physically handicapped' as used in this article (commencing at Sec. 6801) means a physically defective handicapped person under the age of 21 years who is in need of education." (*Sec. 6801, Cal. Ed. Code*)

"As used in this chapter, 'educationally handicapped minors' are minors other than physically handicapped minors (as defined in Sections 6801 and 6802 of this code) or mentally retarded minors (as defined in Sections 6901, 6902, and 6903 of this code) who, by reasons of marked learning or behavioral problems or a combination thereof, cannot receive the reasonable benefit of ordinary educational facilities." (*Sec. 6750, Cal. Ed. Code*)

"The education of mentally retarded minors who are of compulsory school age and who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted shall be provided for in the manner set forth in Sections 6901 to 6913, inclusive, and in Sections 8951 to 8956, inclusive." (*Sec. 6902, Cal. Ed. Code*)

"The education of mentally retarded minors who do not come within the provisions of Section 6902, who are eight or more, and less than 18 years of age and who may be expected to benefit from special educational facilities designed to educate and train them to further their individual acceptance, social adjustment, and economic usefulness in their homes and within a sheltered environment, shall be provided for in the manner set forth in Sections 8951 to 8956, inclusive, and Sections 6901 to 6913, inclusive. (*Sec. 6903, Cal. Ed. Code*)

" 'Mentally retarded minors' means all minors who because of retarded intellectual development as determined by individual psychological examination aren't capable of being educated efficiently and profitably through ordinary classroom instruction." (*Sec. 6901, Cal. Ed. Code*)

Age of Eligibility: Mentally retarded children are eligible for services at the following ages:

1. Educable mentally retarded children eight to 18 (mandatory) and five years eight months to eight and 18 to 21 years of age (permissive);
2. Severely mentally retarded eight to 18 years of age (mandatory) and five to eight years of age (permissive), and
3. Mentally retarded children in occupational training programs may receive services between the ages of 18 and 21. (*Sec. 6902 and 6903, Cal. Ed. Code*)

If classes are established, physically handicapped minors may begin receiving services at age three.

If the school district of the residence of a child between the ages of three and six who is deaf, blind, orthopedic or other health impaired, aphasic, or multiple handicapped does not maintain a special class in the child's appropriate category, but a class or school is maintained by the county superintendent or in another school district, the child may be admitted to that program when all the following circumstances exist: a) the child is eligible for enrollment under the regulations of the county superintendent or a local governing body; b) the governing board of the district or the county superintendent maintaining the classes is willing to admit the child, and c) the parents of the child file a written request for admission into the program and a physician's statement showing that the child is physically able to attend the class. The request and statement must be filed with the superintendent of schools conducting the class. *(Sec. 6809, Cal. Ed. Code)*

Multiple handicapped children are eligible for services between the ages of three and 21. See Services. *(Sec. 6812.1, Cal. Ed. Code)*

IDENTIFICATION AND PLACEMENT

Census: In order to compile sufficient information regarding the handicapped and in order to assure that these children receive educational programs, the governing board of each school district by April 30 of each year will report to the appropriate county superintendent those handicapped children in either of the following categories:

1. Handicapped children participating in special classes or programs in the school district;
2. Handicapped children not covered in number 1, but whose parents, guardians, or other person having control of them have applied to the school district for enrollment of the child in special class, school, or program. If the child was denied enrollment the report shall state this fact. The word "applied" includes an interview by district personnel with the parents, guardian, or any other person having control or charge of the child. *(Sec. 6942, Cal. Ed. Code)*

The required reports may be limited to the particular programs in which a child can participate and the numbers participating in each. The reports required for number 2 shall contain the following information relative to each child reported: name, address, date of birth, name of parents, guardians, or other person having control or charge of the child, handicap of the child as far as known to the school district, and special class, school, or program, if any, in which a child is enrolled and report of any suspensions of 10 days or more or expulsions from a special class, school, or program. *(Sec. 6943, Cal. Ed. Code)*

By June 30 annually, county superintendents report for the present fiscal year to the superintendent all handicapped children in the area under his jurisdiction (including those children participating in a special class or program provided by the county superintendent and those children not participating) for whom application for enrollment has been made by the parent, parents, guardian, or other person in charge or control of the child. The report will contain the same information as mentioned in the previous paragraph and shall also specify the school district which submitted the information to the county superintendent. *(Sec. 6944, Cal. Ed. Code)*

All attending or consulting physicians examining any child under age 20 who is totally deaf or has impaired hearing will report at once to the department of education the name, age, and residence of the child and name of the parent or guardian of the child. *(Sec. 12802, Cal. Ed. Code)*

Screening: Governing boards of school districts will make the rules and regulations for examining public school children to assure care of the pupils and secrecy in connection with any noted defects by the supervisor of health or his assistant and may tend to the correction of the physical defect. *(Sec. 11821, Cal. Ed. Code)*

If a parent or guardian having control or charge of any child enrolled in the public schools files annually with the principal of the school (in which the child is enrolled) a statement in writing noting that he will not consent to a physical examination of his child, the child is exempt from any physical exam. If there is any good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and not be permitted to return to school until the school authorities are satisifed that the disease no longer exists. *(Sec. 11882, Cal. Ed. Code)*

School districts shall provide for sight and hearing testing of public school children. The tests will be given only by qualified supervisors of health employed by the district, by certified employees of the district or the county superintendent of schools possessing the qualifications prescribed by the commission for teacher preparation and licensing, or by contract with an agency authorized by the county superintendent under state board guidelines, or an accredited school or college of optometry, osteopathy, or medicine. Test records will serve as evidence of the need of children for the education services provided physically handicapped individuals. Equipment necessary to conduct the test may be purchased or rented by governing boards. The state, agency, or political subdivision of the state may sell or rent any equipment owned by it to the governing board of any school district upon mutually agreeable terms. *(Sec. 11823, Cal. Ed. Code)*

Persons employed by school districts in positions requiring certified qualifications and holding valid special credentials authorizing the teaching of lipreading or teaching of the deaf and hard of hearing or a standard teaching credential with specialized preparation in the area of the deaf and hard of hearing or in the area of the speech and hearing handicapped may test the hearing of pupils in the district through the use of an audiometer. *(Sec. 11824, Cal. Ed. Code)*

If a physical defect, other than visual, has been noted by a supervisor of health or his assistant, the parents or guardian of the child will be notified and asked to take any action to cure or correct the defect. The report must be made in writing and in a form approved by the superintendent of public instruction. The report will not include any recommendations suggesting directing pupils to a designated individual for the purpose of curing or correcting any defects referred to on the report. If a visual defect has been reported by the superintendent of health or his assistant, a report will be made to the parent or guardian asking the parent or guardian to take any action necessary to correct the defect. Again, the report must not include any recommendations suggesting directing the pupil to a designated individual or class of practitioner to correct the defect. A supervisor of health may recommend in the written report that the child be taken to a public clinic or diagnostic and treatment center operated by a public hospital by the state, county, or city department of public health. The supervisor will also make periodic reports that he feels are necessary for the governing board or that the board may call for showing the number of defective children in the schools of the district and the efforts made to correct such defects. *(Sec. 11827, Cal. Ed. Code)*

The state board of education requires that uniform tests be given to determine the achievement of basic reading fundamentals and skills to all children completing the first and second grades. The children determined to be mentally retarded are exempted from this testing. Those who have been determined to be educationally handicapped are subject to the testing requirement but will be tested separately from regular pupils, and the test scores or results will be submitted separately. The department of education will annually prepare a comparative analysis of the scores and results of tests administered to educationally handicapped pupils and regular pupils. The department of education will also annually report to the legislature the scores and results of the tests administered to educationally handicapped pupils. *(Sec. 5779, Cal. Ed. Code)*

When a child first enrolls in a California elementary school and every third year thereafter until he completes the eighth grade, the child's vision will be tested by the school nurse or another authorized person. The evaluation must include tests for visual acuity in color vision. Gross external observation of the child's eyes, visual performance, and perception tests will be conducted by the school nurse and classroom teacher. The evaluation may be waived if the child's parents present a certificate from a physician, a surgeon, or an optometrist setting out the results of a determination of a child's vision including visual acuity in color vision. If a child's parents or guardian file, with the principal of the school, a statement in writing, that they adhere to the teachings of any well-recognized religious sect or denominational organization and that its creed, tenants, or principals depend upon healing by prayer in the practice of their religion the child will be exempt from the requirement. *(Sec. 11825, Cal. Ed. Code)*

Testing and screening of all pupils in a particular grade, school, or district is not a condition of eligibility for state aid. If the governing boards of the school districts elect to do the testing or screening, only tests or screening procedures approved by the state board may be used. The school districts intending to do such testing or screening must given written notice to the parents or guardian of pupils concerned at least 15 days prior to the testing or screening. The copies of any written instruments to be used for the testing and screening must be available in the office of the principal of the school the pupils attend for examination by the parents or guardian. No child is required to participate in the screening or testing unless the parent or guardian files prior written consent. *(Sec. 6758, Cal. Ed. Code)*

Special Education Evaluation: If a principal of a school reports that a pupil shows evidence of impaired mental health and a mental examination is felt necessary, the governing body of a school district may, with the written consent of the child's parents or guardian, provide for this examination. The principal is not liable for damages or for any civil or criminal penalty for any report made in good faith. (*Sec. 11801, Cal. Ed. Code*)

The governing boards of school districts will make the necessary rules for mental examinations to assure proper care of the child and confidentiality in connection with any condition of impaired mental health noted by the supervisor of health or his assistant. Governing boards may consult and cooperate with the department of mental hygiene to formulate rules and regulations regarding the correction of any mental conditions. The department of mental hygiene will cooperate in aiding and assisting school districts in carrying out these duties. (*Sec. 11802, Cal. Ed. Code*)

If evidence of impaired mental health is noted by the supervisor of health or his assistant, a report will be made to the parent or guardian of the child asking the parent or guardian to take any necessary action to cure or correct the condition. The report must be made in a form approved by the superintendent and may not include any recommendations suggesting or directing the pupil to a designated individual or class of practitioner to cure or correct any condition referred to in the report. This does not prevent the supervisor of health from recommending in a written report that the child be taken to a public clinic or diagnostic or treatment center operated by a public hospital or by a state, county, or city department of public health. (*Sec. 11803, Cal. Ed. Code*)

No officer or employee of a school district, county superintendent of schools or any of his employees, or any member of the county board or any of the employees will place or participate in placing a public school child in any private or public agency, institution, or place outside of the school of attendance for psychological or psychiatrict treatment, or both, without prior written consent of the parent or guardian. (*Sec. 11804, Cal. Ed. Code*)

No psychological or psychiatric treatment may be administered to a pupil at his school of attendance or at a place outside of the school without the written consent of the parent or guardian. (*Sec. 11804, Cal. Ed. Code*)

Governing boards of any school district may contract with a mental health clinic or child guidance clinic to furnish the district with mental health services for its pupils. "Mental health and mental health services does not express or imply legislative intent with regard to other health services." Terms and conditions governing the provision of these services are set forth in the contract. Payments may not be made by the district for services performed by persons not possessing credentials issued by the state board covering these services. If the conditions of the contract have been fulfilled, the cost of services rendered under such a contract may be paid from funds of the district. The governing board of any city, county, or district maintaining a public mental health clinic or child guidance clinic or non-profit health clinic may enter into such an agreement. (*Sec. 11805, Cal. Ed. Code*)

Children will be admitted to programs for the educationally handicapped only on the basis of an individual evaluation according to state board standards and on the recommendation of an admission committee. The admission committee includes an administrator in charge of special education in the school district or county, an administrator designated by the school district, or county superintendent of schools; an experienced special education teacher; a school nurse, and a school psychologist who has examined the child for eligibility for placement. The admission committee will use any necessary health reports to properly evaluate the child. The committee may also have the services or presence of other pupil personnel workers, education specialists, school nurses, social workers, optometrists, or physicians that they may require and/or request.

The parent or guardian of a child being evaluated for placement in a program for the educationally handicapped may select a physician, optometrist, psychologist, social worker, or teacher, whether certified or not, to assit the admission committee in its deliberations. This representative will have no decisionmaking power with the committee. The recommendation for placement must include a statement that, in the professional judgment of the members of the committee, the child is recommended for placement in a program for educationally handicapped minors to ameliorate a marked learning disability associated with a neurological handicap or emotional disturbance or both. Any member of the admission committee dissenting from the final committee recommendation shall attach to the final recommendation a statement of reasons for his objection.

The administrative head of a school district or office of the county superintendent may make an interim placement of a pupil in a program for the educationally handicapped for a period not exceeding 90 days whenever a pupil transfers into the school district from another district in which his last enrollment was in a program for the educationally handicapped. An interim placement may be made without the complete documentation specified above. Before expiration of the 90 days, the interim placement must be reviewed by the admission committee and a final recommendation made. The committee may utilize information, records, and reports from the admission committee proceedings of the school district or county program from which the pupil was transferred. (*Sec. 6755, Cal. Ed. Code*)

Admission committees shall annually review placement of minors in special educational programs for educationally handicapped children and submit recommendations regarding the return of these children to the regular school program, continuance in the program for the educationally handicapped, transfer to other special education programs, or referral to other agencies. (*Sec. 6755.1, Cal. Ed. Code*)

If a minor is being evaluated for placement in a program for the educationally handicapped by an admission committee or a review and recommendation procedure is being conducted by an admission committee, the parent or guardian of the child has the right to have a physician, optometrist, psychologist, social worker, or teacher, whether certified or not, represent the minor and present any additional material to assist the admission committee in making its determination. This representative may be an employee of the school district, but has no decisionmaking power in the admission committee's determination. (*Sec. 6755.2, Cal. Ed. Code*)

No minor is required to participate in a program for the educationally handicapped unless the admission committee or a member of the admission committee, appointed by the committee, has personally consulted the parent or guardian of the child regarding the child's learning disorders and the objectives of the program. The parent or guardian, subsequent to such counseling, but prior to the child's participation in the special education program must file written consent to the child's participation with the governing board of the school district or with the office of the county superintendent. (*Sec. 6755.3, Cal. Ed. Code*)

The state board will adopt rules and regulations and prescribe standards for the individual identification and evaluation of educationally handicapped children and their admission to special education programs. In arriving at the standards, the state board will receive assistance from an advisory committee consisting of one member each from the state departments of education, mental hygiene, public health, and any members appointed by the heads of the respective departments. The advisory committee may have additional members appointed by the state board. (*Sec. 6756, Cal. Ed. Code*)

Before any child is admitted into a special education program for the mentally retarded, he must be given a verbal or non-verbal individual intelligence test in his primary home language, i.e., the language in which the child is most fluent and has his best speaking ability and capability to understand. These tests will be selected from a list approved by the state board of education. (*Sec. 6902.06, Cal. Ed. Code*)

If a child scores higher than two standard deviations below the norm, considering standard measurements of error, he will not be placed in a special education class for the mentally retarded. Neither shall a child be placed in a special education program for the mentally retarded when tested in a language other than English, if he scores higher than two standard deviations below the norm, considering standard measurements of error, on a non-verbal intelligence test or on the non-verbal portion of an individual intelligence test which includes both verbal and non-verbal sections.

He may be placed in a special education program for the mentally retarded if he scores two standard deviations or more below the norm on an individual intelligence test selected from a list approved by the state board, if a complete psychological examination by a credentialed school psychologist investigating such factors as developmental history, cultural background, and school achievement substantiates the retarded intellectual development indicated by the test scores. Written consent of the parent or guardian of the child after they have received a complete explanation of the special education program is necessary for placement for a child in a program for the mentally retarded. (*Sec. 6902.085, Cal. Ed. Code*)

The psychological examination must be administered by a credentialed school psychologist fluent in the minor's home language. If such a person is not available an interpreter qualified in the primary home language must be present to assure effective communication between the minor and psychologist administering the evaluation. The interpreter will be provided by the district with inservice training in the application of evaluation techniques and procedures. This training is to be conducted by a school psychologist according to state board guidelines. (*Sec. 6902.085, Cal. Ed. Code*)

The department of education shall at the end of each school year submit a report to the legislature concerning results of testing and placement of minors in special education programs for the mentally retarded and Sections 6902.06 and 6902.07 will remain in effect only until September 30, 1973. (*Sec. 4, Ch. 1969, 1971, Cal. Ed. Code*)

After a child has been screened and referred, written permission for the individual psychological examination must be secured in a conference with a school official and the parent or guardian or his authorized representative. After the evaluation, the psychologist will confer with the parent or guardian or his authorized representative regarding the recommendation to the admission committee. Following the admission committee meeting, a committee member will meet with the parent to discuss the committee conclusion and obtain written permission for placement. (*Sec. 6902,085, Cal. Ed. Code*)

No minor may be placed in a special education class for the mentally retarded without the written consent of his parent or guardian. After a complete explanation of the special education program, permission documents for individual psychological evaluation and placement shall be written in English and in the language of the parent or guardian. Conferences and notices to inform the parent or guardian of the nature of the placement processes, the committee conclusion, and the special education program shall be in the home language of the parent or guardian. (*Sec. 6902.085, Cal. Ed. Code*)

"In exceptional circumstances, after an examination of relevant and cultural and adaptive behavior data, the admission committee may by unanimous vote agree to place a minor in a special education class for the mentally retarded in spite of an individual test score higher than two standard deviations below the norm. The committee shall take notice of and be guided by the legislative intent expressed in Section 6902.06. Upon such unanimous agreement, a written report indicative of the decision of the committee and the reasons therefore, shall be sent to the parent or guardian of the minor. Beginning in 1971-1972, each school district shall report annually to the department of education:

1. The ethnic breakdown of the children placed in special education classes for the mentally retarded in the district;
2. The ethnic breakdown of the children who will be placed in such classes by the standard admissions procedure and by the exceptional unanimous consent procedure described in this section.

If the percentage of children from any ethnic group in such class varies by 15 percent or more from the percentage of such children living in the district as a whole, explanation for such variation shall be attached to the report to the department of education." (*Sec. 6902.095, Cal. Ed. Code*)

The psychological evaluation must include estimates of adaptive behavior. Until adaptive behavior scales are normed and approved by the state board, the adaptability testing includes, but is not limited to a visit with the consent of the parents or guardian at in-home interviews with members of the child's family by the school psychologist or person designated by him. If the language spoken in the home is not English, these interviews shall be conducted in the language of the home. After a student has been screened and referred, written permission for the individual's psychological evaluation must be secured in a conference with the school officials and parents.

All minors currently enrolled in programs for the mentally retarded had to be retested by a verbal or non-verbal individual test in the primary home language of the child prior to the conclusion of the 1970 calendar year. (*Sec. 6902.08, Cal. Ed. Code*)

If it is determined that any child has been misplaced in a program for the mentally retarded, he will be withdrawn from the program after consultation with his parents or guardian. The child may then be placed in a compensatory educational program or a supplementary educational program conducted by the district with the goal of accelerating his educational program or a supplementary educational program conducted by the district with the goal of accelerating his educational attainment so that he may participate in the regular instruction of the district. (*Sec. 6902.09, Cal. Ed. Code*)

The superintendent of public instruction shall grant to those districts having discovered misplaced mentally retarded and severely mentally retarded minors in addition to the regular foundation program support, allowances providing supplemental educational programs to facilitate the return to the regular school program of mentally retarded and severely mentally retarded minors, who have been in special day classes, but who upon being reevaluated or reexamined are determined to have the mental capacity for regular school enrollment. The allowance shall be an amount equal to the allowance computed in sections 18102.2 and 18102.8, if applicable. The allowance will be granted for not more than the two fiscal years following retesting. After retesting and whenever a school district or superintendent determines that an eligible student has made satisfactory progress so that he may be integrated into the regular school program, the district will then become ineligible for further additional support for the student. (*Sec. 18102.11, Cal. Ed. Code*)

School districts and counties receiving these allowances must report annually to the superintendent all expenditures and incomes related to the program. If the superintendent, in consultation with the director of special education, determines that the current expense of operating a special program does not equal or exceed the total basic state aid and basic equalization aid, and any local tax contributed toward the support of the foundation programs for each pupil in average daily attendance in the special program, the difference will be withheld from state aid to the school district or the county superintendent in the succeeding fiscal year. The extra allowances become inoperative on July 1, 1974. (*Sec. 18102.12, Cal. Ed. Code*)

No teacher, principal, employee, or governing board member of any public, private, or parochial school, including colleges and universities shall permit access to any written records of any particular child enrolled in the school to any person except under judicial process unless the person is one of the following:

1. A parent or guardian of the child;
2. A person designated in writing by the pupil, if he is an adult, or by the parent or guardian of the child if he is a minor;
3. An officer or employee of a public, private, or parochial school where the pupil attends, has attended, or intends to enroll;
4. A state or local law enforcement officer including a probation officer, parole officer, or a member of a parole board seeking information in the course of his duties; or
5. State superintendent of public instruction, or a member of his staff, or the county superintendent of the county where the pupil attends, has attended, or intends to enroll, or a member of his staff.

These restrictions are not intended to interfere with the preparation and distribution of junior college, college, and university student directories, or with furnishing lists of names and addresses and telephone numbers of junior college, college, and university students to proprietors of campus housing. Also the restrictions are not intended to interfere with the giving of information by school personnel concerning participation in athletics or other school activities, or for scholastic or other honor awards. A governing board, at its discretion, may provide information to the staff of a college, university, educational research and development organization, or laboratory if the information is necessary to a research project or study conducted, sponsored, or approved by a college or university, educational research and development organization, or laboratory. However, no pupil is to be identified by name in the submitted information. An employer or potential employer may be furnished the age and scholastic record of the pupil. An employment recommendation is prepared by members of the school staff. Rosters or lists containing names and addresses of seniors in public, private, or parochial high schools or junior colleges may be furnished private businesses, professional schools and colleges. (*Sec. 10751, Cal. Ed. Code*)

ADMINISTRATIVE RESPONSIBILITY

The department of education will establish minimum standards for all special schools and classes and will enforce these standards throughout the state. (*Sec. 6906, Cal. Ed. Code*)

The superintendent will promote and direct special instruction in the public schools for physically handicapped minors. He may employ necessary personnel and perform any other duties necessary to fulfill the provisions of the article. (*Sec. 6803, Cal. Ed. Code*)

The state department may prescribe minimum standards for special education for the physically handicapped children. No state funds will be granted by the superintendent to any district for physically handicapped children unless they comply with state standards. (*Sec. 6804, Cal. Ed. Code*)

The superintendent will prescribe procedures for qualifying for and determining the amount of allowance for special and regular day classes and for authorized instruction other than in special or day classes for physically handicapped children. (*Sec. 6816, Cal. Ed. Code*)

The governing board of a local school district may establish regulations determining who can profit by and who shall receive the special instruction provided for physically handicapped children. These regulations will be subject to standards prescribed by the state department of education. (*Sec. 6811, Cal. Ed. Code*)

Maximum class sizes for programs for the physically handicapped are as follows for children ages three through eight: deaf, six; severely hard of hearing, eight; combination of deaf and severely handicapped, six; blind, eight; partially seeing, 10; combination of blind and partially seeing, eight; orthopedic or other health impaired, 12; aphasic, six; deaf, blind, multi-handicapped, three; and other multi-handicapped, six.

Maximum class sizes for programs for the physically handicapped are as follows for children ages nine through 20 years: deaf, eight; severely hard of hearing, 10; combination of deaf and severely handicapped, eight; blind, 10; partially seeing, 12; combination of blind and partially seeing, 10; orthopedic or other health impaired, 16; aphasic, eight; other physically handicapped, 20; deaf, blind, multi-handicapped, five; and other multi-handicapped, eight.

Maximum class size requirement may be waived in the following two circumstances:

1. With the approval of the state board of education, a county superintendent or school district submits a proposal to conduct experimental studies determining the proper maximum class size standards.
2. If, after the beginning of the school year, the classes for a given category of physically handicapped children are at a maximum size and additional pupils will be without schooling unless additional classes are established and qualified teachers are unavailable, a school district or county superintendent of schools may request permission of the superintendent of public instruction to exceed the maximum class size for the remainder of that school year by not more than two pupils (*Sec. 6802.2, Cal. Ed. Code*)

Coordinative, consultant, and supervisory services will be provided by the superintendent of public instruction for programs for multiple handicapped children, and personnel shall be employed devoting their full time to supervising the provision of services to these children. (*Sec. 6803.1, Cal. Ed. Code*)

The state board of education may adopt rules and regulations governing the establishment of programs for preparing physically handicapped and mentally retarded minors enrolled in special day classes for suitable occupations. These programs will provide for physically handicapped and mentally retarded children unable to profit by regular classes of work experience education. (*Sec. 6931, Cal. Ed. Code*)

The superintendent of public instruction will prescribe the procedures for qualifying for and determining the amount of allowances for special and regular day classes and for authorized instruction in other than special and regular day classes for education of mentally retarded minors (*Sec. 895.10 Cal. Ed. Code*)

The superintendent of public instruction recommends, and the state board adopts guidelines for use by school districts and county superintendents to develop curriculum and adopt courses of study for special instruction of mentally retarded children enrolled in the public schools. (*Sec. 160, Cal. Ed. Code*)

The director of education shall provide consultant services for the education of hard of hearing children in areas where such services are not available. Services will be provided through an expert in the fields of organization and planning for the education of the hard of hearing. (*Sec. 264, Cal. Ed. Code*)

County superintendents of schools have a primary responsibility for coordinating all special programs maintained by their offices and by the school districts under the jurisdiction of that office for educating the physically handicapped and the mentally retarded. County superintendents will undertake necessary measures to assure that all children in the school district territory under their jurisdiction eligible to participate in any special program for physically handicapped or mentally handicapped children are afforded the opportunity to participate in an appropriate program. County superintendents will compile and maintain a tabulation of all children enrolled in every category of the special education program in the school districts under their jurisdiction. They shall also maintain a current list of all physically handicapped and mentally retarded children who have applied for but have been denied access to each category of special education program under his jurisdiction. Consultative and coordinative services to school districts will be provided by the county superintendent with programs for physically and mentally handicapped children. (*Sec. 885.9, Cal. Ed. Code*)

The state board of education is responsible for adopting rules and regulations prescribing the standards for special education programs for the educationally handicapped including, but not limited to, individual evaluation of pupils, curriculum content, teacher qualifications for each type of program, provisions for periodic examination, reevaluation, and transfer of educationally handicapped minors participating in each type of special educational program. (*Sec. 6757, Cal. Ed. Code*)

Maximum class size for programs for the educationally handicapped in special day classes is 12. If, after the beginning of the school year, it is determined that additional pupils will be without schooling unless additional classes are established but additional qualified teachers are unavailable and the present classes are at the maximum size, a school district or county superintendent may request permission of the superintendent to exceed the maximum class size for all or part of the remainder of the school year. The superintendent may approve such requests as long as the maximum size is not increased more than two pupils above the maximum specified enrollment.

For learning disability groups, the maximum enrollment is 32. Participation in a learning disability group will be for at least 30 minutes and will not exceed eight pupils at any one time. The instruction provided by a full time teacher whether offered by a single teacher or two or more part-time teachers will result in not more than eight units of average daily attendance being credited as the result of this instruction. (*Sec. 6751.1, Cal. Ed. Code*)

Any district furnishing services to physically handicapped children shall furnish these services to all physically handicapped children residing in the district five or more days a week, although their legal residence may be outside the district. (*Sec. 6805, Cal. Ed. Code*)

No child is required to take advantage of any special provisions for the physically handicapped if his parents or guardian file a statement with the governing board of the school district showing that the child is receiving an adequate education elsewhere. (*Sec. 6814, Cal. Ed. Code*)

"The governing board of any district may make the special provisions that in its judgment are necessary for the education of physically handicapped children. (*Sec. 6801, Cal. Ed. Code*)

Programs for physically handicapped children will be maintained by the county superintendent of schools including programs for the cerebral palsied, orthopedically handicapped, the visually handicapped, and aurally handicapped, who reside in the county and in elementary or unified school districts having an ADA of less than 8000, whenever the districts have not provided nor entered into contract with other districts to provide for such programs. (*Sec. 8901, Cal. Ed. Code*)

The governing board of any school district may provide for any one or more of the special educational programs for the educationally handicapped. Districts with an ADA of 901 or less may contract with the county superintendent to provide the programs. (*Sec. 6751, Cal. Ed. Code*)

The superintendent of public instruction will establish supervisory and consultative services for programs for educationally handicapped children and will employ personnel devoting their entire time to the provision of these services. (*Sec. 6759, Cal. Ed. Code*)

The California school for the deaf is part of the school system, but it derives no revenue from the public school fund. The school is under the administration of the state department of education. (*Sec. 2552 and 2553, Cal. Ed. Code*)

The department of education has the responsibility for prescribing the rules for the government of the schools as well as appointment of the superintendent, other officers, and employees. (*Sec. 25554, Cal. Ed. Code*)

The department of education maintains the same control over the California school for the blind as it does for the school for the deaf. The school is also part of the public school system of the state, but does not receive funds from the public school fund. (*Sec. 25752-25754, Cal. Ed. Code*)

The schools for the neurologically handicapped are also part of the public school system of the state and derive no revenue from the public school fund. Their objectives are diagnosis and determination of treatment in an educational program essential for children with neurological handicaps. The schools provide temporary services to the children who need educational diagnostic services not available in regular public schools. (*Sec. 26402, Cal. Ed. Code*)

The schools are under the director of education. He is responsible for prescribing rules for governing the schools, for appointing the superintendent, and for contracting with the University of California or other public or private hospital or school of medicine in order to establish and maintain diagnostic service and treatment centers for neurologically handicapped children. (*Sec. 26402-26404, Cal. Ed. Code*)

PLANNING

One person with special knowledge, experience, and qualifications regarding the special education needs of physically and mentally handicapped persons must be on the California Advisory Council on Vocational Education and Technical Training. (*Sec. 6262, Cal. Ed. Code*)

The coordinating council on programs for handicapped children is composed of the director of education, the director of mental hygiene, the director of mental health, the director of rehabilitation, and the director of social welfare.

The departments involved will cooperate with and furnish any information, records, and documents the council may request and makes available any facilities the council needs and perform other staff services and functions.

The council is responsible for reviewing programs and services offered handicapped children under the age of 21 by state and local agencies and will coordinate and evaluate existing programs. The council is further responsible for preparing and distributing a list describing available services to handicapped children and requirements for obtaining services. The council will file an annual report to the governor and the legislature on its activities and will recommend any needed or proposed legislation giving major attention to orderly and planned growth for programs for the handicapped. The council also serves as an advisory body to the state departments represented on the council and to other state and local agencies when necessary. Any state department or agency, upon request of the council, will cooperate with and furnish information records or documents the council may request in order to carry out these provisions. (*Sec. 7900 to 7907, Cal. Wel. & Inst. Code*)

FINANCE

The superintendent of public instruction is allowed to grant to county school service funds, in addition to all other allowances, state funds:

1. for all emergency schools maintained in each elementary school district of the county by the county superintendent of schools;
2. for all special schools or classes for mentally retarded and severely mentally retarded children maintained in each elementary school district of the county by the county superintendent of schools;
3. for all elementary schools maintained in juvenile halls, juvenile homes, and juvenile camps by the county superintendent of schools, and
4. for schools and classes for educationally handicapped children maintained in each elementary school district of the county by the county superintendent the same amount as he would compute as the foundation program of the elementary school district under Sections 17655.5 and 17656. No reimbursement may be given for emergency schools in excess of the actual expense of maintaining the school. (*Sec. 18355, Cal. Ed. Code*)

The superintendent will prescribe the procedures for qualifying for and determining the amount of the allowances for special or regular day classes and for instruction other than special or regular day classes for the mentally retarded. (*Sec. 6913, Cal. Ed. Code*)

The maximum tax rate of the school district for any school year may be increased by an amount determined by the governing board of the school district that has entered into an agreement with another district or with the county superintendent for educational services and facilities including the rental of property or purchase of equipment for educable and severely mentally retarded minors. Minimum amounts will be included in the budget for the purchase or improvement of school facilities. Budget expenditures may include the cost of equipment and facilities, lease or lease-purchasing of buildings, lease of equipment, alterations or additions to existing buildings or other necessary capital outlay expenditures in connection with such educational services. If, at the end of the school year, there remains an unencumbered balance derived from the revenue of the increase in the tax rate the balance will be used exclusively for such expenditures in the following fiscal year. (*Sec. 6913.1, Cal. Ed. Code*)

Whenever a school district maintains special training schools or classes for the mentally retarded, or special schools or classes for the education of physically handicapped children, the governing board of the school district may apply to the superintendent of public schools for an apportionment pursuant to Secs. 6914 to 6919. (*Sec. 6914, Cal. Ed. Code*)

If physically handicapped pupils are given instruction at home or in a hospital or if children with speech disorders or defects are admitted at the age of three for individual or small group instruction of four pupils or less at the school, each clock hour of instruction devoted to the instruction will count as one day of attendance. No pupil will be given individual instruction for more than three hours in any one day or credited with more days of attendance for individual instruction during any fiscal year than the number of legal calendar school days that school may be maintained during such year. (*Sec. 11202, Cal. Ed. Code*)

Attendance of educationally handicapped minors in special day classes who attend the school for the number of minutes that constitute a minimum school day shall be credited as a day of attendance. Each clock hour of teaching time devoted to individual instruction of educationally handicapped minors shall count as one day of instruction. The average daily attendance of all educationally handicapped minors will be computed by dividing the total number of days of attendance of the pupils by the number of days taught in the regular schools of the district. (*Sec. 11226, Cal. Ed. Code*)

The superintendent will allot each school district or county superintendent of schools for the education of physically handicapped children during the current school year the amount computed as follows:

1. Dividing the average daily attendance of physically handicapped children by the maximum class size established by law for such classes and increasing the quotient to the next highest integer if a fractional amount is produced;

2. Multiplying the amount computed above by a total support guaranty of $17,260; and

3. Subtracting from that amount any of the applicable following amounts: (a) the product of the average daily attendance (ADA) of physically handicapped minors in classes kindergarten through grade eight and the foundation program per pupil established in the elementary school district with an ADA of 900 or more; and (b) the product of the ADA of physically handicapped in grades nine to 12 and the foundation program per pupil established for high school districts with an ADA of 901 or more; (c) the product of the ADA of physically handicapped children in grades 13 and 14 and the foundation program per pupil established for junior college districts with an ADA in excess of 1000. (*Sec. 18102, Cal. Ed. Code*)

State aid for the educationally handicapped will be computed as follows:

1. Divide the ADA of educationally handicapped children by the maximum class size and increase the quotient to the next highest integer if a fractional amount is produced;

2. Multiply the amount computed by the total above by a total support guaranty of $16,260; and

3. Subtract from the amount computed the applicable of the following amounts: (a) product of the ADA of educationally handicapped children in kindergarten through grade eight and the foundation program per pupil established for elementary school districts with an average daily attendance of 901 or more; (b) product of the ADA of educationally handicapped children in grades nine to 14 and the foundation program per pupil established for high school districts with an ADA of 900 or more; (c) product of the average daily attendance of physically handicapped children in grades 13 and 14 and the foundation program per pupil for junior colleges with an average daily attendance in excess of 1000. (*Sec. 18102, Cal. Ed. Code*)

The governing board of school districts with an ADA of less than 2000 or a county superintendent of schools may seek the approval of the superintendent of public instruction whenever sparsity of population or transportation distances make it impossible to maintain maximum class sizes to maintain smaller classes. If the superintendent, upon review, finds that it is impossible to maintain maximum class sizes, he may add to the amounts allowed above an amount sufficient to provide for the needed classes but not more per class than the applicable amounts for classes with maximum class size. (*Sec. 18102.8, Cal. Ed. Code*)

Attendance of educationally handicapped minors instructed by the county superintendent will be computed as follows:

1. Attendance of elementary pupils in special classes for the educationally handicapped children will be credited to the county school service fund as attendance "upon a single emergency elementary school for special class instruction of these pupils." Attendance of pupils of secondary grade in classes maintained for educationally handicapped children will be credited to the county school service fund and "attendance upon a single emergency secondary school for special class instruction for such pupils;"

2. Attendance of elementary pupils in learning disability groups will be credited to the county school service fund as "attendance upon a single emergency elementary school for learning disability group instruction of educationally handicapped minors." Attendance of secondary pupils will be credited in the same manner to the emergency secondary school for learning disability group instruction of secondary pupils will be credited in the same manner to the emergency secondary school fund;

3. Attendance of elementary pupils given instruction in a home, hospital, or regularly established licensed children's institution will be credited to the county school service fund as "attendance upon a single emergency elementary school for home, hospital or regularly established licensed children's institution instruction of educationally handicapped minors." Attendance of pupils of secondary grade will be credited in the same manner as a single emergency secondary school. (*Sec. 11229, Cal. Ed. Code*)

Districts maintaining programs for educationally handicapped children may not enroll at any one time more than two percent of total district enrollment, except as permitted by special authorization of the superintendent of public instruction. The total district enrollment means the average number of pupils exclusive of pupils receiving home instruction and tuition students enrolled at the end of the first school month and the sixth school month of the school year.

The superintendent will report to each regular session of the legislature:

1. The school districts and county superintendents of schools permitted to exceed the two percent during the preceding school year;

2. The number of additional pupils involved, and

3. The causes resulting in granting the permission.

County superintendent of schools maintaining schools in juvenile halls or juvenile homes, ranches, or camps (as authorized by the welfare and institutions code) will not enroll at any give time more than two percent of the juvenile population in these institutions in programs for the educationally handicapped.

Except as permitted by the superintendent, the two percent limitation does not include pupils participating in a program who reside in a non-profit tax exempt residential facility. (*Sec. 6752, Cal. Ed. Code*)

When school districts provide education in grades kindergarten through 12 for children residing in a regularly established licensed children's institution located within or without the boundaries of the district, the district is reimbursed for the actual cost of educating the children by the county or city and county in which the child resided prior to his admission to the instituion. If the child's prior residence cannot be ascertained or if his residence was outside the state of California, the district will be reimbursed for the actual cost of educating the child by the county or city and county in which the institution or family home is located. The pupil residing in an institution or family home under this section does not acquire residence in the district wherein the institution or family home is located during his residence at the institution. (*Sec. 6951, Cal. Ed. Code*)

Claims concerning the attendance of an exceptional child at any school, institution, or agency in which there are an insufficient number of properly certified teachers but which otherwise offer an acceptable education program are allowed if:

1. The department of education has determined that there is in the area served by the school, institution or agency a shortage of certified teachers, and

2. The department of education determines that the needs of the children served by the school, institution, or agency would be more adequately served through an education at that school, institution, or agency than they would be if the child remained in his existing educational environment. If the department determines that there are a sufficient number of properly certified and employable teachers available, the department will require that properly certified teachers be employed by the school, institution, or agency before any claim may be paid for the education of an exceptional child. (*Sec. 6874.6, Cal. Ed. Code*) The computation of average daily attendance does not include physically handicapped, speech impaired, deaf, or hard of hearing children between the ages of 18 months and three years who are receiving instruction. (*Sec. 11557, Cal. Ed. Code*)

Each district transporting blind, deaf, aphasic, orthopedic or other health impaired, multiply handicapped, mentally retarded, and physically handicapped children who are handicapped in mobility will receive for transporting children to day classes $389 for each unit of average daily attendance. They will receive the same amount for transporting deaf, severely hard of hearing, blind, deaf-blind, or other multiply handicapped pupils to experimental programs for children between the ages of 18 months and three years. County schools service funds will receive $389 for each student in average daily attendance receiving transporting from the county superintendent of schools. In cases where the school districts and the county superintendent of schools furnish transportation to handicapped children requiring vehicles exclusively for that purpose, the superintendent of schools shall allow 75 percent of any expense in excess of the $389, but the additional allowance cannot exceed $73 per unit of average daily attendance. In no case shall the district receive any amount greater than its total current expense in providing transportation. (*Sec. 18060, Cal. Ed. Code*)

Attendance of physically handicapped pupils in a special class for the same number of minutes as constitutes a day of attendance in regular classes of the same grade will constitute a day of attendance. For children over age 16 enrolled in an approved occupational training program or work experience program, each clock hour of teaching time devoted to individual instruction of physically handicapped pupils are instructed at the same time by the same teacher in a remedial class conducted by a school district or county superintendent, the total attendance credited for such pupils will equal one unit of attendance for each 60 minutes of instruction. The average daily attendance of all physically handicapped pupils will be computed by dividing the total number days of attendance of the pupils by the number of days taught in the regular schools of the district. When a physically handicapped minor 16 years of age or over is enrolled in an approved occupational training program, two clock hours of attendance in a special day school or class in combination with two clock hours of attendance in an occupational training program will count as one day of attendance. When a physically handicapped minor 16 years of age or over is enrolled in an approved off campus work experience education or work study program, one day of attendance may consist of either: (a) two class hours of attendance and two hours at such a program; or (b) three class hours and one hour in such a program. No pupil will be credited with more than five days of attendance per calendar week or more than the number of calendar days each special day school or class is maintained in the school year. (*Sec. 11201, Cal. Ed. Code*)

Deaf, hard of hearing, blind, deaf-blind, and multiply handicapped children receiving services in an experimental program for children between the ages of 18 months and three years will be credited to the school district of the county superintendent of schools providing such instruction in the same manner as physically handicapped minors receiving special education services between the ages of three and 21. Computations of allowances and apportionment from the state school fund for such children will be credited to the district or the county superintendent in the same manner as other funds for the physically handicapped for children between the ages of three and 21. (*Sec. 6812.5, Cal. Ed. Code*)

School districts having educationally handicapped students receiving special education will report the attendance of the children and submit any claims to the districts for special purpose apportionment to be used in payment to the parent or guardian of the minor toward any tuition arising out of the attendance through the county superintendent of schools to the superintendent of public instruction. The claims will be submitted at a time and in a manner prescribed by the superintendent. The county superintendent will verify the attendance report and claims. (*Sec. 6771, Cal. Ed. Code*)

Upon verification of the attendance and the claim, the superintendent will apportion to the district submitting the report and the claim of the parent or guardian of the minor for the tuition in question in an amount sufficient to satisfy the claim but not in excess of the sum per unit of ADA of the state apportionment to the district for the fiscal year in question, the maximum amount allowable per unit of ADA for reimbursement of excess current expenses under Sec. 18060 and 18102. (*Sec. 6772, Cal. Ed. Code*)

The superintendent of public instruction shall allow the school districts for transporting children whose vision or hearing is impaired to a degree making it practical to transport them to the California school for the blind and school for the deaf or to some location in another public school district where specialized instruction may be afforded, $389 for each unit of average daily attendance. If they are furnishing transportation in motor vehicles used exclusively for them the superintendent will allow 75 percent of any expense in excess of $389 but the additional allowance may not exceed $73 per unit of ADA. The amount will be allowed as part of the second principal apportionment under special request and upon approval of the superintendent. (*Sec. 18062, Cal. Ed. Code*)

The governing board of the district of residence of a child who is a day class pupil at the California school for the deaf will pay for the transportation. Pupils 15 years of age or older as of September 1 of each fiscal year will be considered residents of the high school district and pupils 14 years of age or under will be considered residents of the elementary district. (*Sec. 26708.1, Cal. Ed. Code*)

The district of residence will pay from the general fund of the school district the cost for the transportation of pupil to any of the California school for the blind's day classes. Districts of residence will be determined in the same manner as those attending the California school for the deaf. (*Sec. 2582.1, Cal. Ed. Code*)

Instructional aides shall not be utilized to increase the number of pupils in relation to the number of classroom teachers in any school or school district in the state. Class size ratios existing in special education classes may be maintained or decreased but not increased by use of instructional aides. (*Sec. 13599.2, Cal. Ed. Code*)

For all physically handicapped, mentally retarded, and educationally handicapped children of secondary grade educated by the county, the superintendent of public instruction shall allow the same amount as he would compute for the foundation program of a high school district. (*Sec. 18358, Cal. Ed. Code*)

The ADA of elementary schools for the district will be computed by excluding the ADA of pupils attending seventh and eighth grade or a junior high school maintained by the district. (*Sec. 895.1, Cal. Ed. Code*)

The superintendent of public instruction will prescribe the form and manner of notification of intention to initiate a program for the educationally handicapped and will prescribe the procedures for qualifying for state aid for special day classes of authorized instruction in other than special day classes. (*Sec. 6761, Cal. Ed. Code*)

The application for funds must be made prior to September 1 of each year and must include an estimate of the ADA that will be credited to the schools, classes, or integrated programs during the school year for which an advance apportionment is requested. The estimate is based on the number of children (residing in the district or in an adjacent district) who are physically handicapped and who will attend the schools, classes, or integrated programs. (*Sec. 6915, Cal. Ed. Code*)

Within 30 days of the application, the superintendent will approve it. He then will apportion to each applicant school, from the state general fund as an advance against future apportionment from the state school fund, an amount to each district which is equal to the maximum amount allowable for each type of program included in the request per unit of ADA to school districts for the excess expense of educating severely mentally retarded children and physically handicapped children multiplied by eight and the product multiplied by the number of special classes or integrated programs maintained by the applicant school district for such minors. (*Sec. 6916, Cal. Ed. Code*)

All monies received by the treasurer of the county under these sections will be credited by the treasurer to the general fund of the school district of the county exactly as apportioned by the superintendent. (*Sec. 6918, Cal. Ed. Code*)

During the next two fiscal years after the fiscal year in which the apportionment is advanced to a school district, the state comptroller will deduct from apportionments made to each school district from the state school fund an amount equal to the amount apportioned to the district under Sec. 6914 to 6919 and pay the same into the state general fund. (*Sec. 6919, Cal. Ed. Code*)

Attendance of educationally handicapped children receiving instruction by school districts are reported annually through the county superintendent together with all other attendance on forms provided by the superintendent. (*Sec. 11228, Cal. Ed. Code*)

The ADA of physically handicapped elementary and secondary pupils, instructed by a county superintendent, whose attendance is credited to the county school service fund will be computed by dividing the total days of attendance of such pupils during the fiscal year by 175. (*Sec. 1151 and 1152, Cal. Ed. Code*)

The ADA of mentally retarded children, instructed by a county superintendent, will be computed by dividing the total days of attendance by 175 and the ADA will be credited to the county school service fund. However, the ADA of severely mentally retarded children for the purpose of computing transportation allowances under Section 18060 will be computed by dividing the total number of days of attendance of the pupils during the fiscal year including the days of attendance in an authorized summer session by 175. (*Sec. 11553, Cal. Ed. Code*)

The ADA of educationally handicapped elementary and secondary children, instructed by a county superintendent, whose attendance is credited to the county high school service fund will be computed by dividing the total days of attendance of these pupils during the fiscal year by 175. (*Sec. 11555 and 11556, Cal. Ed. Code*)

The minimum school day for pupils in kindergarten classes and for severely mentally retarded children in special training schools or classes is 180 minutes, including recesses. If the school district maintains two such classes on the same day taught by the same teacher the minimum school day for the classes is 150 minutes, including recesses. (*Sec. 11003, Cal. Ed. Code*)

Minimum school day in grades one to three in elementary schools (except in opportunity schools or classes) is 230 minutes unless the governing board of the school district has prescribed a shorter length of time, because of lack of school facilities requiring double sessions. In this case, the minimum school day is 200 minutes. (*Sec. 11005 and 11006, Cal. Ed. Code*)

Minimum school day in grades four to eight in elementary schools and in special day and evening classes in elementary school districts, except in opportunity schools or classes, is 240 minutes. (*Sec. 11006, Cal. Ed. Code*)

The school day in any high school except an evening high school or regional occupational center, opportunity school and opportunity classes, continuation high school, and continuation education classes, and in late afternoon or Saturday occupationally organized vocational training programs conducted under federally approved plans for vocational education is 240 minutes. (*Sec. 11052, Cal. Ed. Code*)

Minimum school day for secondary educationally handicapped students is 240 minutes. (*Sec. 11054, Cal. Ed. Code*)

The attendance of all physically handicapped pupils given instruction by a school district including those instructed under cooperative agreements with the bureau of vocational rehabilitation will be reported annually to the county superintendent of schools together with all other attendance. (*Sec. 11203, Cal. Ed. Code*)

The attendance of physically handicapped pupils instructed pursuant to Section 8903 by the county superintendent is credited as follows:

1. Attendance of elementary pupils taught in emergency elementary schools and in special classes shall be credited to the emergency schools.

2. Attendance of elementary school pupils given individual instruction in the home or at the bedside in institutions and of minors with speech disorders and defects at least three years of age and of minors who are deaf or hard of hearing between the ages of three and six given individual instruction in school or in the home or by cooperative arrangements with the division of vocational rehabilitation of the state department of rehabilitation, or in remedial classes, or in integrated programs of instruction, is credited to an

emergency elementary school maintained for physically handicapped if there is such a school in the county. If there is no such school, attendance is credited to an emergency elementary school. If there is no emergency school maintained in the county the total number of days of attendance of pupils will be divided by 175 to compute average daily attendance and the ADA so computed is credited to the county school service fund as attendance upon a single emergency elementary school for individual instruction for the physically handicapped.

3. Attendance of pupils of secondary grades given individual instruction in the home or institution, or by cooperative arrangement with the division of vocational rehabilitation, or instructed in special classes of secondary grade or in remedial classes or integrated programs of instructions of secondary grades will be credited to the county school service fund. Attendance of pupils taught by emergency teachers in the regular schools will be credited to the district except the attendance of pupils taught by emergency teachers pursuant to Section 8902 in the regular elementary schools of the district of any county and the attendance of elementary pupils in remedial classes pursuant to 8901 will be credited to the county school service fund in accordance with subdivision two of this section.

4. Attendance of pupils residing in one county and educated under contract with the county superintendent of schools or governing board of the school district of another county will be credited to the county school service fund of the county or district in which pupils are educated.

5. If the county superintendent maintains an integrated program of instruction as defined in Section 18060.2 and contracts with the school district to provide the instruction for part of the day in the regular classes of the district, the total attendance of the pupils under the program will be credited to the county school service fund at both the elementary and secondary levels. (*Sec. 11204, Cal. Ed. Code*)

"The amount transferred pursuant to subdivision (b) of Section 17301 shall be expended in accordance with the following schedule:

(a) Twenty-one dollars and fifty cents ($21.50) multiplied by the total average daily attendance credited during the preceding school year to elementary school districts which during the preceding school year had less than 901 units of average daily attendance, to high school districts which during the preceding school year had less than 301 units of average daily attendance, and to unified districts which during the preceding school year had less than 1501 units of average daily attendance, but not to exceed an amount equal to one dollar and sixty cents ($1.60) multiplied by the average daily attendance credited during the preceding fiscal year to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds, for allowance to county school service funds pursuant to subdivision (a) of Section 18352.

(b) Four dollars ($4) multiplied by the total average daily attendance credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the preceding school year for the purposes of Article 10 (commencing with Section 18051) of Chapter 3 of this division.

(c) Twelve dollars and eighty-five cents ($12.85), multiplied by the total average daily attendance credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the preceding school year, for the purposes of Sections 18060 and 18062, and Articles 11, 12 and 13 (commencing with Sections 18102, 18152, and 18202, respectively) of Chapter 3 of this division.

(d) Three dollars and six cents ($3.06) multiplied by the total average daily attendance credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the preceding school year for allowances to county school service funds pursuant to subdivision (b) of Section 18352.

(e) Ninety-six cents ($0.96), multiplied by the average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds for allowances to school districts for the purposes of Section 6426.

(f) Sixty dollars and sixty-seven cents ($60.67) multiplied by the average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the preceding school year for basic aid, equalization aid, allowances for adults, and allowances to the county school tuition funds to be apportioned on account of average daily attendance." (*Sec. 17303.5, Cal. Ed. Code*)

The superintendent of public instruction shall not allow, except under Section 18060, a total amount in excess of the amount provided by law for transportational allowances. (*Sec. 18051, Cal. Ed. Code*)

As used in Section 18060, "blind" includes partially seeing, and "deaf" includes hard of hearing. "Special day classes" include integrated programs of instruction for physically handicapped children including those children handicapped in vision or hearing requiring provision of services of a qualified special teacher. "Integrated programs of instruction for the physically handicapped" include those handicapped in vision or hearing or who are in any program where a physically handicapped child receives his education in regular classrooms from regular classroom teachers. In addition, the child receives supplementary teaching services from a teacher possessing a valid credential to teach exceptional children of the type enrolled in the program. "Supplementary teaching services" may include instruction in the appropriate tool skills, the provision of special material, and the use of appropriate special equipment in necessary counseling and guidance to enable physically handicapped, vision, and hearing handicapped children to benefit fully from their instruction. "Physically handicapped children" means those children who are eligible for special class placement as defined by the state board. (*Sec. 18060.2, Cal. Ed. Code*)

The superintendent will allow during the current fiscal year, to each school district and county school superintendent maintaining special day classes for the education of physically handicapped, mentally retarded, severely mentally retarded and educationally handicapped children, amounts prescribed by this article for each of their respective types of classes maintained for the fiscal year. (*Sec. 18101, Cal. Ed. Code*)

The state board of education will adopt rules and regulations (based upon principles governing the education of handicapped children), developed by competent authorities in the field to establish appropriate distinctions between special day classes and other forms of instruction methods of organization by which instruction may be afforded to the various categories of handicapped children, and to establish appropriate class sizes for each category of handicapped minor for the special day classes. (*Sec. 18101.5, Cal. Ed. Code*)

By July 15th of each year the superintendent of each California diagnostic school for neurologically handicapped children will report in writing to the governing board of all school districts the name of each pupil in residence and number of days attended by each pupil during the fiscal year. For each pupil in attendance, the school district shall annually pay to the department of education an amount determined by dividing the income credited to the general fund of the school district from the levy of the district tax rate and proceeds of taxes levied under sections 1822.2, 1825, 16633, 16635, 1645.9, 1943, 19610, and 20801 and 22101 by the average daily attendance of the school district and (2) multiplying the quotient obtained by the ratio of the number of days pupils attended the school bears to the number of days that the school was in session. The payment to the department must be made by September 30. (*Sec. 26501.1, Cal. Ed. Code*)

If the school district pays more than is due the department, the department will refund the excess amount to the district from the appropriation in which the payment was credited. (*Sec. 16501.2, Cal. Ed. Codes,)*

The maximum rate of a school district tax for any fiscal year is increased by an amount that will provide the amount of proposed expenditures for programs of educating physically handicapped and mentally retarded children in development centers in excess of state apportionments as shown by a budget of the district adopted by the governing board of the district. The proposed expenditures may include the cost of equipment and facilities, lease or purchase of buildings, lease of land, alteration or additions to existing buildings, or any other necessary capital outlay expenditures in connection with the programs. If at the end of any fiscal year there remains an unencumbered balance derived from the revenue of the increase in tax, the balance will be used exclusively in the following fiscal year for the expenditures of the school district for development centers. (*Sec. 20807, Cal. Ed. Code*)

A county and city, or county (described in Sec. 6951) shall at the close of each school year pay to the district or county superintendent educating the child the cost of educating the child during the school year in a regularly licensed children's home. The cost is determined by dividing the total current expense of the school district or county superintendent of schools during the school year plus all apportions from the state or allocations from federal government received by the district or county superintendents of schools, by the total number of units of average daily attendance in each district or in programs maintained by the county or city and county in which any such child is a resident at the closing of each school year, and also pay to the district or county superintendent of schools educating the child the excess expenditures of educating him during the school year. The excess expenditures are determined by dividing the total excess expenditures of the district or county during this school year for educating these children with special purpose apportionments from the state or allocations from the federal government on account of the excess cost of educating the child by the total number of units of ADA of such children in the school, classes, facilities, and programs during each school year. The ADA for all minors attending a junior high school or accordance with Sections 5601 and 5612 will be credited to the elementary district in which the institution is located and excess expenditures and any additional expenditures made by the district during the school year for the education of these minors.

In cases where the education of such children is provided in buildings or facilities owned by the school district or county superintendent, the county or city and county of the child's residence shall pay the school district, or county superintendent of schools for the child's use of the buildings, facilities, and equipment an amount per unit of ADA in one of the following categories: 1. $35 in an elementary school district; 2. $55 in a high school district; 3. $42 in a unified school district, and 4. $44 to a county superintendent of schools.

The money received by the school district will be credited to its bond interests and redemption fund or building fund. Monies received by the county will be deposited to the credit of the county school service fund for use in providing school buildings and facilities for use of the county superintendent of schools to educate mentally retarded children, physically handicapped children, and non-immigrant children. Except for mentally retarded children and physically handicapped children, no payment may be made to a district for children described in Section 6951 unless the district educates from kindergarten through grade 12 at least 30 children described in Section 6951 in buildings and facilities owned by the district. No payment is made to a district under Section 6950, unless the district educates (from kindergarten through grade 12) at least 30 children described in Section 6950 in buildings or facilities owned by the district. (*Sec. 6952.5, Cal. Ed. Code*)

By July 15 of each year, districts maintaining such schools or classes shall forward, to the county superintendent or city and county where the district is located, claims for reimbursement to the pupil's county and city or county of residence. (*Sec. 6953, Cal. Ed. Code*)

The county superintendent in each county or city and county will file, with the board of supervisors by August 8, a request for sufficient funds to pay the total amount of the claims presented to him in accordance with this chapter. If during any fiscal year the county superintendent determines an amount of at least $100 more or an amount of at least $100 less than was required for the claim of any individual district included in his request to the county board of supervisors during a prior fiscal year, this amount shall no later than the third succeeding fiscal year be added to or deducted from the requested funds for the then current fiscal year. (*Sec. 6954, Cal. Ed. Code*)

Boards of supervisors of each county and city or county will annually, at the time and in the manner of levying of the city and county taxes, levy a special tax for the payment of the claims submitted under this chapter. (*Sec. 6955, Cal. Ed. Code*)

Monies received from the county tax will be deposited in the county treasury to the credit of the county school service fund. By the first Monday in February and the first Monday in June of each year, the county auditor will notify the county superintendent of the amount of money in the treasury available for payment of claims under this chapter. (*Sec. 6955, Cal. Ed. Code*)

The state superintendent will prescribe the procedures required of school districts and county superintendents under this chapter. They will also adopt all rules and regulations necessary to carry it out. (*Sec. 6957, Cal. Ed. Code*)

The superintendent of public instruction will provide the facilities, furniture, equipment, and personnel necessary to carry out the provisions of 10301. (*Sec. 10302, Cal. Ed. Code*)

In order to carry out these provisions, the superintendent will be allowed an amount not exceeding $28,000 annually. (*Sec. 30303, Cal. Ed. Code*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Any school district having an ADA of 4000 or more can contract with the county superintendent of schools or with another school district to educate physically handicapped, mentally retarded, or educationally handicapped children of any contracting party. All parties to the contract will require the district whose pupils are receiving educational services to pay all costs of the educational services in excess of the amounts received by the servicing unit from the state school fund. Whenever a county superintendent of schools is a party to such contracts, no tax may be levied to defray the cost of educational services under the contract by any party other than the school district whose pupils are receiving the educational services. (*Sec. 895.12, Cal. Ed. Code*)

County superintendents of schools (in counties with more than 25,000 pupils in ADA in which at least 50 percent of the mentally retarded pupils are enrolled in classes conducted by the county superintendent) shall employ at least one full-time certified person to coordinate activities involved in the preparation, adoption, revision, use, and enforcement of a course of study for the mentally retarded in which the county course of study is required. Minimum professional requirements for employment in this position will be the holding of a regular teaching credential with authorization for teaching the mentally retarded. County boards of education, in counties with less than 25,000 in average daily attendance with the governing board of any school district and with an ADA of more than 8000, may cooperate with the county superintendent of schools for developing a course of study for mentally retarded pupils educated by them. (*Sec. 6904.2, Cal. Ed. Code*)

Governing boards of any unified, elementary, or high school districts required to provide for the education of severely mentally retarded children in special training classes may enter, with the approval of the superintendent, into an agreement with the county superintendent of schools for him to provide the required services. (*Sec. 6904, Cal. Ed. Code*)

The county superintendent of schools maintaining special classes or schools for mentally retarded children may limit the number of minors admitted to such schools or classes. Any minor becoming age 21 while in attendance in the special training classes will be permitted to continue to attend for the remainder of the school year. (*Sec. 895.3, Cal. Ed. Code*)

The county superintendents who are otherwise required to maintain special training schools or classes for mentally retarded children may provide for the education and transportation of such children in special training schools or classes maintained by the high school district or by another county. The agreement must be approved by the county board of education. (*Sec. 894, Cal. Ed.. Code*)

A tax may be levied by counties to provide for the education and training of physically handicapped minors coming within the provision of Section of 6801 and 6802. The county superintendent, when actually maintaining schools or classes for handicapped children in districts with an ADA of over 8000 by agreement with the governing board of the school districts, shall certify (with the approval of the county board) to the county auditor or the county board of supervisors the amount of money required to be raised by the tax for physically handicapped children coming within the provisions of 6801 and 6802. The tax is raised in the same manner for districts with an ADA of less than 8000, but the tax in districts of more than 8000 will not include any amount for the education of physically handicapped minors actually conducted by local school districts or for contracted services by another school district. (*Sec. 895.8, Cal. Ed. Code*)

The superintendent of public instruction will reduce allowances to county school service funds by an amount determined by multiplying $.60 by each $100 of total assessed valuation of all elementary and unified school districts for whom the county superintendent of schools maintains exclusive classes in grades kindergarten through eight pursuant to Section 894 dividing the product by the total average daily attendance of pupils. Then multiply the quotient by the ADA of pupils attending special schools or classes maintained by the county superintendent of schools in grades kindergarten through eight. The superintendent will also reduce allowances to county school service funds by an amount determined by multiplying $.50 by each $100 of total assessed valuation of all high school unified school districts in which the county superintendent of schools maintains schools or classes in grades nine through 12 pursuant to Section 894. Divide the product by the total ADA of pupils involved in the foundation program then multiply the quotient by the ADA of pupils attending special schools or classes maintained by the county superintendent of schools. (*Sec. 895.9, Cal. Ed. Code*)

The governing boards of school disticts with an ADA of less than 901 may enter into an agreement with the county superintendent to provide special educational programs for educationally handicapped minors. The governing board of the school district may enter into agreements with the governing boards of other school districts to educate these children. The district of residence having pupils receiving special education under the provisions of this section will pay expenses involved in providing this special education over and above the state apportionments made to the county superintendent. (*Sec. 6753, Cal. Ed. Code*)

County superintendents of schools required to provide for educating mentally retarded children in special training schools and classes coming within provisions of Section 6903, may enter (with the approval of the superintendent) into an agreement with an elementary, unified, or high school district to provide for them. The county superintendent may establish and maintain, with the approval of the county board, special training schools or classes for the mentally retarded residing in the county coming under the provision of Section 6903. The county superintendent may also contract with an elementary or unified district with an ADA of 8000 or more in an elementary or a high school district. If the county superintendent does establish programs under this Section, the foundation program applies as if the county superintendent were establishing classes for the educable mentally retarded in districts with an ADA of 901 or more. (*Sec. 895, Cal. Ed. Code*)

The county superintendent of schools may contract with any other county superintendent of schools to provide educational services and programs for educationally handicapped, physically handicapped, and mentally retarded children. Before the contract can take effect, it must be approved by the boards of education of all involved counties. (*Sec. 821, Cal. Ed. Code*)

Counties providing for the education of educable and severely mentally retarded children are authorized to levy a tax (in excess of all other taxes) at the time of levying other county taxes. The tax will be levied on districts in the county that have not been approved to operate programs. The tax cannot exceed $.10 per $100 of assessed valuation. The funds raised by this tax will be credited to the county school service fund. Excess amounts collected may be applied to reducing taxes in succeeding fiscal years. (*Sec. 895.7, Cal. Ed. Code*)

A county superintendent of schools, with the approval of the county board, may enter into an agreement with the governing board of any school district under his jurisdiction to conduct a remedial class for handicapped children excused from regular classes for a portion of the class. Cost of the education to the district shall not exceed the actual cost to the county superintendent. (*Sec. 894.1, Cal. Ed. Code*)

County superintendents providing education to the physically handicapped will annually report to the superintendent their total average daily attendance, type of instruction provided, cost of education, and any other necessary information. (*Sec. 894.2, Cal. Ed. Code*)

The superintendent will prescribe the procedures for qualifying for and determining the amount of allowances for special or regular day classes or authorized instruction in other than special or regular day classes for physically handicapped minors. (*Sec. 894.3, Cal. Ed. Code*)

The ADA of elementary schools of the district will be computed by including the ADA of pupils attending the seventh and eighth grades of a junior high school maintained by a high school district. (*Sec. 894.4, Cal. Ed. Code*)

The schools and classes will be established in centrally located places, and the county superintendent shall provide transportation for the pupils attending them. The district shall pay (to the county service fund) all costs of education for these children which are in excess of the amounts, apportioned from the state school's fund for educable mentally retarded children. Any elementary or unified district with an ADA of less than 901 (with the approval of the county superintendent) may establish or maintain special training schools or classes for educable mentally retarded children. The county superintendent of schools with the approval of the county board may establish or maintain special training schools or classes for these children residing in the county. The county superintendent may also contract with an elementary or unified school district with an ADA of 901 or more. The contract must be approved by the county board and will require the district to pay (to the county school service fund in the county or district in which the school is located) all costs for the education of these children in excess of the state apportionments.

The programs, with the approval of the county board, may be provided in one or more of the following ways: 1) in special schools or classes of elementary and secondary grade and in remedial classes of elementary and secondary grade; 2) by employing emergency teachers to provide special instruction in the regular schools of the districts of the county; 3) by maintenance of special classes of secondary grade; 4) by employing home instructors giving individual instruction in the home or at the bedside in institutions and by employing instructors to provide remedial instruction for the physically handicapped in regular special day and special training schools or classes which he is authorized to conduct and by employing of instructors to provide individual instruction for children with speech disorders or defects who are at least three years of age; 5) by cooperating with the department of rehabilitation and providing individual instruction and coordination services; 6) by contracting with the county superintendent of schools of another county or with the governing board of any school district; 7) by integrated programs of instruction in elementary or secondary grade, and 8) by employing instructors to provide individual instruction in school or in homes of minors who are deaf or hard of hearing as determined by the state board of education or between the ages of three and six. These schools and classes will be established at centrally located places, and the county superintendent will provide transportation to the students attending these classes.

In cases where it would be impractical because of distance to bring together a sufficient number of children to form a school or a special class, the county superintendent of schools (with the annual approval of the superintendent) may defer compliance with the provision of this section for the year in question. Elementary or unified districts with an ADA of less than 8000 with the approval of the county superintendent of schools may establish and maintain programs for the physically handicapped. The county superintendent of schools required to provide for education for physically handicapped children may enter, with the approval of the superintendent, into agreements with an elementary, unified, or high school district to provide for the education of physically handicapped children. (*Sec. 8901, Cal. Ed. Code*)

The average daily attendance of the elementary schools of the district shall be computed by excluding the average daily attendance of pupils attending the seventh and eighth grades of junior high school maintained by a high school district. (*Sec. 8901.1, Cal. Ed. Code*)

The attendance of physically handicapped children instructed by the county superintendent will be credited as follows:

1. Attendance of elementary pupils into the emergency elementary schools and in special classes will be credited to the emergency schools.
2. Attendance of elementary pupils given individual instruction at home or at the bedside in institutions or minors with speech disorders or defects who are at least three years of age, minors who are deaf or hard of hearing and between the ages of three and six and given individual instruction in a school, in the home, or by cooperative arrangements with the division of vocational rehabilitation or in remedial classes or in integrated programs of instruction shall be credited to an emergency elementary school maintained for physically handicapped pupils if such a school is maintained in the county. If no school is maintained, the attendance will be credited to an emergency elementary school, the total number of days of attendance of pupils shall be divided by 175 to compute the ADA. The ADA thus computed will be credited to the county school service fund as attendance upon a single emergency elementary school for individual instruction of physically handicapped children. Attendance of pupils of secondary grades given individual instruction in the home or in institutions of a cooperative agreement with the division of rehabilitation or instructed in special classes of secondary grade or in remedial classes or in integrated programs of instruction of secondary grade will be credited to the county school service fund.
3. Attendance of pupils taught by emergency teachers in regular schools of the districts of any county will be credited to the districts except that the attendance of pupils taught by emergency teachers in the regular elementary schools of the district of any county and the attendance of any elementary pupils in remedial classes will be credited to the county school service fund.
4. Attendance of pupils residing in one county and educated under contract with the county superintendent of schools or governing board of a school district of another county shall be credited to the county's school service fund of the county providing the services.
5. If the county superintendent of schools maintains an integrated program of instruction and contracts with the school district to provide instruction for part of the day in the regular classes of the district, the total attendance of pupils will be credited to the county school service fund at both the elementary and secondary levels. (*Sec. 11204, Cal. Ed. Code*)

County superintendents may establish programs for physically handicapped minors who reside in any district of the county with the approval of the county board of education and agreement of the local governing board of the school district. The superintendent in this case might use any of the means listed in subsections 1, 3, 7 and 8 above. Such schools and classes must be established in centrally located places, and transportation will be provided by the county superintendent of schools. If it is impracticable to bring a sufficient number of physically handicapped minors together to form a school or special class (with the annual approval of the superintendent of public instruction), county superintendents may defer compliance with the mandatory provisions of this section for the year in question. (*Sec. 894, Cal. Ed. Code*)

If any school districts are required to maintain special training schools and classes for mentally retarded minors, they may provide for the education of these children in and for the transportation to special training schools or classes maintained by another school district or by a county superintendent of schools. (*Sec. 6910, Cal. Ed. Code*)

In lieu of entering an agreement for transporting mentally retarded children by the school district of residence, the county superintendent in the county with special training schools or classes may provide the transportation. (*Sec. 6911, Cal. Ed. Code*)

The governing boards of any school district required or otherwise to maintain special training schools or classes for exceptional children may contract, with the approval of the county superintendent of schools, with any state college within the boundaries of the county within which the school district is located to provide for the education of the children in laboratory classes for exceptional children established and maintained in conjunction with the state college. Transportation will also be provided for the children. Exceptional children includes physically handicapped, mentally retarded, or educationally handicapped children. (*Sec. 1064.1, Cal. Ed. Code*)

If a school district maintains a school or class in a tuberculosis or polio ward, or hospital, or sanatorium established or maintained by a county or group of counties, any minor or adult admitted, if otherwise qualified, is eligible to attend the schools or classes and will be considered a resident of the school district, in which he resided prior to admission. Minimum school day for the classes is 180 minutes. If two or more districts operate such schools or classes, the governing boards of the districts may jointly employ personnel to administer and conduct the programs. The school district maintaining the school shall, no later than 30 days following the date of enrollment of a student who resides in another school district under this section, notify the district of residence of the student's enrollment. (*Sec. 6851, Cal. Ed. Code*)

The cost per school year of educating any minors or adults at such schools or classes will be paid by the school district in which the minor or adult is a resident to the district maintaining the school or class. The cost will be determined by dividing the total current expenditures of the school district during each school year for the maintenance of the schools or classes less all apportionments from the state or allocations from the federal government on account of such schools or classes, by the total number of units of average daily attendance in such schools or classes during the school year. Districts providing services to minors in the schools or classes will be apportioned excess cost apportionments for handicapped children as stated elsewhere in this code. The standards will be adopted by the superintendent relating to administration, attendants, accounting and counseling in hospital schools and classes. (*Sec. 6852, Cal. Ed. Code*)

By July 15 of each year, a district maintaining such schools or classes will forward its claim to the district of residence for educating minors or adult residents of that district. Upon receipt of the claim, the governing board of the district of residence will pay the tuition cost. (*Sec. 6853, Cal. Ed. Code*)

Districts receiving such tuition charges may include in their budget an amount necessary to pay the claim. If the amount is included in the budget, the board of supervisors shall levy a school district tax to raise the amount. The school district tax is in addition to any other tax authorized by law. (*Sec. 6854, Cal. Ed. Code*)

Governing boards of any school district maintaining schools or classes in a tuberculosis or polio ward, hospital, or sanitarium may include in their budget an amount necessary to maintain these schools or classes. The board of supervisors will levy a school district tax necessary to raise the amount. The tax will be in addition to any other school district tax authorized by law to be levied. (*Sec. 6855, Cal. Ed. Code*)

The governing boards of any school district or county superintendent, with the approval of the county board, may maintain schools and juvenile halls or juvenile homes, ranches, or camps as authorized by the welfare and institutions code. They may provide any one or more of the special educational programs for the educationally handicapped minors authorized in this section. County superintendents may enter into an agreement with the governing board of any school district with less than a 901 ADA in elementary schools or in the high schools in the district to provide for one or more of the special educational programs for educationally handicapped students. If a child in an education program for educationally handicapped pupils is receiving services in a special day class through home and hospital instruction and lives in a district with an ADA of 901 or more, the foundation program described in Section 17656 for an elementary school district with an ADA of 901 or more will apply to the educationally handicapped pupils of the elementary schools of the district who are in such a special education program and the foundation program described in Section 17665 will apply to educationally handicapped pupils in the high schools in the district in such a special education program. The programs will emphasize fundamental school subjects with the aim of returning pupils to the regular school program at the earliest possible date. Special education programs for educationally handicapped minors are:

1. Special Day Classes. Classes are maintained for at least a minimum school day. Fundamental school subjects will be emphasized as prescribed by the state board.
2. Learning Disability Groups. The pupil remains in his regular class but is scheduled for individual small group instruction given by a special teacher. If two to four educationally handicapped pupils are instructed at the same time by the same teacher, the total attendance credited for each such pupil, will equal one unit of attendance for each 60 minutes of instruction.
3. Specialized Consultation to Teachers, Counselors, and Supervisors. Consultation is provided to teachers, counselors and supervisors relative to the learning disabilities of individual pupils and special education services required by these pupils.
4. Home and Hospital Instruction. Children unable to function in a school setting and who do not attend school receive instruction at the appropriate grade level at home or in a hospital. (*Sec. 6751, Cal. Ed. Code*)

Any school district not maintaining facilities for the education of physically handicapped children shall enter into a contract with the school districts within the same county or with the county superintendent of schools maintaining such facilities. If there are no districts in the same county or if the county superintendent of schools does not maintain appropriate facilities, the governing board of the school district shall enter into a contract with a school district in another county. If the governing board of the district determines that it is more economical and practical, it may enter into a contract with a school district located in another county. If questions arise concerning the adequacy of facilities provided for the education of physically handicapped children by the school district in which the child is actually a resident, the parent or guardian of the child may appeal to the county superintendent of schools. If the county superintendent determines that the facilities are inadequate, he shall order the school district in which the child is actually living either to provide the facilities or to enter into a contract with the school district maintaining adequate facilities. The contract shall provide for the actual payment of the cost of tuition by the district and may provide for the payment of the cost of the use of buildings and equipment. The cost of tuition shall not be greater than the difference between prior expenditures per unit of average daily attendance including transportation for the education of a pupil in a particular category of physically handicapped minors to which the pupil belongs and the apportionment of state funds for the education of physically handicapped minors in that category.

Physically handicapped minors may be instructed in special schools, special classes, hospitals, sanitariums, or in the home through the employment of home instructors or by cooperative arrangement with the department of rehabilitation or by any other means approved by the state department of education. Children with speech disorders or defects may be admitted to schools for individualized or small group instruction of four pupils or less for the purpose of correcting the speech disorder or defect. With prior approval of the superintendent of public instruction, these children may be admitted at the age of 18 months for instruction. Deaf or hard of hearing children between the ages of three and six may be admitted to school for individual instruction or be instructed in the home through the employment of a home instructor, if there are fewer than five such educable minors in the community making the establishment of a special class impracticable because there are fewer than five children in the community within reasonable travel distance of a suitable school. Instruction must be provided by a teacher or home instructor possessing full qualifications and credentials to teach deaf pupils. With prior approval of the superintendent of public instruction, children may be admitted into special education programs for deaf children at the age of 18 months. *(Sec. 6812, Cal. Ed. Code)*

SERVICES

" 'Special day classes' includes integrated programs of instruction for physically handicapped children including those handicapped in vision or hearing where the services of a qualified special teacher are provided.

"An integrated program of instruction for physically handicapped children including those handicapped in vision or hearing shall be defined as any program in which such physically handicapped children receive their education in regular classrooms from regular classroom teachers, but receive, in addition, supplementary teacher services of a full-time special teacher, possessing a valid credential to teach exceptional children of a type enrolled in the program. Such supplementary teaching services may include instruction in the appropriate tool skills the provision of special materials in the use of appropriate special equipment, and counseling and guidance necessary to enable physically handicapped children and those handicapped in vision or hearing to benefit fully from their instruction. As used in this section 'physically handicapped' children means those physically handicapoed who are deemed eligible for special class placement as defined by the state board of education." *(Sec. 18102.4, Cal. Ed. Code)*

The governing board of the school district in which any physically handicapped child is actually living, although the residence of his parents or guardian is outside the district, shall provide the transportation for the minor to the school at which the education is furnished if his handicap prevents his walking to school. Transportation is also provided if the distance is greater than one mile, regardless of whether the education is furnished within or without the district. *(Sec. 6808, Cal. Ed. Code)*

Children with cerebral palsy may attend a special school or class maintained by any school district for these children. The governing board of the district of residence will pay (to the district of attendance at the close of each year) the total expenditures for the education of cerebral palsied children and apportionments of state and federal funds. The governing board of the district of residence may agree to reimburse the district of attendance for use of buildings and equipment. If the district of residence has insufficient funds to make this payment, the county superintendent of schools having jurisdiction over the district of residence will apportion to the district from the county school service fund any funds necessary to permit the district to meet its obligation. *(Sec. 6815, Cal. Ed. Code)*

The amount shall be determined no later than the last Monday in December and the last Monday in May of each year by the county superintendent. *(Sec. 6806, Cal. Ed. Code)*

School districts maintaining home teaching programs for the handicapped may provide such teaching on Saturdays with the consent of the parent or guardian of the handicapped child. (*Sec. 6153, Cal. Ed. Code*)

On or after September 1, 1975, all persons teaching multiply handicapped children must hold a valid credential to teach exceptional children. (*Sec. 6820.2, Cal. Ed. Code*)

The superintendent of public instruction may approve special day classes for the multiply handicapped conducted by a school district or county superintendent of schools. During fiscal year 1970-71, no more than 100 classes could have been approved. Beginning with the 1971 regular session of the Legislature, the superintendent of public instruction shall annually report to the Legislature progress being made in the education of multiply handicapped children including the number of authorized classes and number of children enrolled, the nature of handicapping conditions of children in the special classes, a description of the instruction provided, the objectives of the program, achievement outcomes, and recommendations for further program development. (*Sec. 6812.1, Cal. Ed. Code*)

Deaf, severely hard of hearing, blind, deaf-blind or other multiply handicapped children (as determined by the state board of education) who are between the ages of 18 months and three years, may be enrolled in experimental programs conducted by the school district or the county superintendent of schools. Such programs must be approved by the superintendent. Teachers participating in this program must possess full qualifications to teach the deaf, severely hard of hearing, blind or deaf-blind or other multiply handicapped children as prescribed by the rules and regulations of the state board. (*Sec. 6812.5, Cal. Ed. Code*)

Subject to the availability of federal funds, the superintendent of public instruction shall select not more than four existing development centers for the handicapped children and conduct a pilot program for mentally disordered chikldren. The centers will be, as much as possible, selected from a representative cross section of existing programs. A "mentally disordered minor" means a child who, as determined by the governing board of the district maintaining a development center for handicapped children, is unable because of mental disorders to adequately function in the regular school program. The pilot program begins on July 1, 1971, and ends on June 20, 1972. Total enrollement in the pilot program may not exceed 40 children. The sample pilot group selected will be given instruction in a separate classroom from that of the non-pilot group of handicapped children. Classes for the sample pilot group will be limited to not more than 10 mentally disordered children per classroom. An evaluation will be sumitted by the superintendent on the pilot program including the recommendations on the feasibility of establishing the program on a statewide basis to the legislature not later than September 1, 1972.

The evaluation of the program must include:

1. description of the physical, psychological, and educational characteristics of the sample pilot group;
2. description of any changes in physical, psychological, and education achievements at six-month intervals;
3. description of specific programs provided and types of personnel employed and the cost, and
4. analysis of the impact of including mentally disordered children and other non-mentally disordered children into quality construction programs. (*Ch. 1524, Laws of 1970*)

Individual counseling and guidance in social and vocational matters shall be provided as part of the instructional program for physically handicapped students. With the approval of the state department, governing boards of any school district may separately (or in cooperation with the governing board or boards of one or more other school districts or in cooperation with the department of rehabilitation) employ a special coordinator who will make a study of employment and occupational opportunities and who will assist in the coordination of the education of physically handicapped children with the commercial and industrial pursuits of the community to prepare the minors for employment. (*Sec. 6818, Cal. Ed. Code*)

If funds have been appropriated by the legislature or if federal funds are available, the state board shall approve and provide for the establishment of no more than 20 pilot programs directed to develop methods and techniques for identifying mentally gifted children within the educationally handicapped and culturally deprived elements in the school age population and improving the academic performance of these children. Programs will be conducted in selected school districts including urban and rural areas in districts of varying sizes. The program began with the 1968-69 fiscal year and continued for two more years after that under the direction of the director of compensatory education. (*Sec. 6499.21, Cal. Ed. Code*)

Programs under this section have the purposes of:

1. developing instrumentalities, techniques, and procedures for identifying potential, procedure for identifying gifted disadvantaged minors shall not be limited to the testing programs but will also include other suitable methods;

2. devising procedures, methods, and programs whether innovative, experimental or otherwise to raise the aspiration level of academic achievement of disadvantaged children, and
3. augmenting the resources and effectiveness of the established compensatory educational programs and related educational undertakings. (*Sec. 6499.22, Cal. Ed. Code*)

The governing board of any school district or county superintendent of schools of any county maintaining secondary schools may enter into contracts with the governing boards of other school districts or with the county superintendent and with any department or agency of the state to obtain and provide services and other assistance in connection with providing effective rehabilitation services to include, but not limited to, occupational training, mobility training, sheltered workshops, and work experience programs. Any school district, governing board or county superintendent entering into a contract with the state department of rehabilitation may employ or allow to be employed in the school district employees of the state department of rehabilitiation or other persons not employed by the department but certified by the department to be fully qualified. Certification to the state department of education by the department of rehabilitation must note that the individual meets all requirements and fulfills all qualifications of that department for the position for which he is being considered. This shall serve as evidence that the individual meets academic, professional, and experience requirements for standard designated services with specializations in pupil personnel services as a rehabilitation counselor or mobility instructor for the blind. (*Sec. 6933, Cal. Ed. Code*)

The superintendent of public instruction will withhold, from the total amount allocated in any current fiscal year, an amount equal to .0016 of the amount allocated in the preceding year for use by the department of education for research, program development, and evaluation of special education through contractual agreements. Seventy-five percent of the funds withheld will be used to contract for research in special education for exceptional children. Contractual agreements for such research will be made with universities operating joint doctoral programs in special education in cooperation with a state college. At each of the two universities operating such a program, the department will expend for research and services at least $75,000 annually for a period of five years. Twenty-five percent of the withheld amount will be used by the department for program development and evaluation through contractual agreements with an agency or organization possessing personnel and competencies necessary for the successful completion of the project or projects selected for study and analysis. (*Sec. 18104, Cal. Ed. Code*)

An annual commission on special education is established so that new and continuing areas of research, program development, and evaluation in special education may be studied. The committee is composed of the coordinator of the joint doctoral program for each college and university conducting special programs; the chief of the division of special education; a specialist in special education chosen by the chief of the division; a physician and surgeon licensed by the board of medical examiners from the Neuropsychiatric Institute, UCLA Medical Center, chosen by the regents of the University of California; a physician and surgeon licensed by the board of medical examiners from the Langley Porter Neuropsychiatric Institute at the University of California Medical School Center in San Francisco, chosen by the regents of the University of California, and a member of the California State Federation of the Council for Exceptional Children, chosen by the president of that organization. (*Sec. 18104.1, Cal. Ed. Code*)

The chairman of the assembly education committee, the chairman of the Senate education committee, and two additional members from the Senate and the Assembly chosen by the speaker and the president pro tem, will meet with the committee and participate in its activities to the extent that their participation is not incompatible with their respective positions as members in the legislature. (*Sec. 18104.2, Cal. Ed. Code*)

On November 1 of each year between 1971 and 1974, the department will report to the joint legislative budget committee on all activities relating to the contracts for research in special education and all activities in evaluation in program development. The legislative analyst shall prepare analysis for the legislature of the reports made by the department of education to the joint legislative budget committee. (Sec. 18104.4, Cal. Ed. Code)

The legislative analyst will be informed by the department of the progress of any current negotiations respecting any proposed contracts for research, evaluation, or program development in special education. (*Sec. 18104.5, Cal. Ed. Code*)

Rather than entering into an agreement for the transportation of mentally retarded children with the schol district, the county superintendent of schools required to provide for mentally retarded children may provide transportation. (*Sec. 895.5, Cal. Ed. Code*)

No person may be employed as a teacher of the mentally retarded who does not hold valid credentials the education of these children. Substitute teachers for each special training class for the mentally retarded may be employed, for not more than 20 school days, if they hold some other valid credentials authorizing them to be a substitute teacher. (*Sec. 6913, Cal. Ed. Code*)

Individual counseling in social and vocational matters will be provided as part of the instructional program for mentally retarded pupils. With the approval of the state department, the governing board of a school district may, separately or cooperatively with governing boards of one or more other school districts, or, in cooperation with the bureau of vocational rehabilitation in the state department, employ a special coordinator to make studies of employment and occupational opportunities. The governing board may also assist in the coordination and education of mentally retarded children with the commercial and industrial pursuits of the community. (*Sec. 6912.5, Cal. Ed. Code*)

Governing boards of unified or high school districts required or authorized to maintain special training classes for mentally retarded children shall issue diplomas or other certificates of graduation to each child who has met the minimum standards of the state board for such special schools. The diploma or certificate of graduation shall not contain any notation or evidence which indicates that the graduate is a mentally retarded person. (*Sec. 6906.5, Cal. Ed. Code*)

Before initiating any program for the educationally handicapped, the governing boards of school districts or county superintendents must notify the superintendent of public instruction of its intention to do so and furnish any relevant information with respect to the proposed special education program that may be required by the superintendent. The notice and the information on it will be on the forms provided by the superintendent. (*Sec. 6754, Cal. Ed. Code*)

Governing boards of any school district maintaining secondary schools will have the power, with the approval of the state department of education, to establish special classes to serve the educational needs of handicapped adults. Classes will be directed to providing instruction in civic, vocational, literary, homemaking, technical, and general education. (*Sec. 5746, Cal. Ed. Code*)

The department of rehabilitation may establish orientation centers for the blind on a statewide basis. They may be established under the jurisdiction and supervision of the department of rehabilitation and will be administered by the director of rehabilitation. (*Sec. 6201, Cal. Ed. Code*)

Each center will be residential in nature. Blind persons will be admitted as residents and trainees in an intensive program designed for maximum vocational and personal rehabilitation and to prepare blind persons for useful and remunerative work in trades, professions, private business, private industry, or public service. (*Sec. 6202, Cal. Ed. Code*)

The department of education may appoint counselors to assist blind students in the public schools to solve problems connected with their school program. The counselors may visit blind pupils attending any public school in the state and their homes to advise them and discuss with them and their parents, solutions to the problems pertaining to their school attendance. Counselors will be available to teachers and administrators in the public schools where blind pupils are in attendance to advise and counsel them regarding teaching methods. Counselors must have special training for such work and be familiar with problems peculiar to the blind in public school education. Blindness shall not disqualify a person for these positions. (*Sec. 6817, Cal. Ed. Code*)

If care is needed during school hours by a pupil whose attendance has been irregular because of a physical handicap, persons to provide such care may be employed. (*Sec. 6810, Cal. Ed. Code*)

The board will make available copies of adopted textbooks in large print for pupils in the elementary schools whose visual acuity is 20/70 or less, or who have other visual impairments making the use of the textbooks necessary. The board will also make available adapted textbooks in braille characters for pupils enrolled in elementary schools whose corrected visual acuity is 20/200 or less. (*Sec. 9316, Cal. Ed. Code*)

The superintendent will establish and maintain a central clearinghouse depository for special textbooks, reference books, recordings, study materials, tangible apparatus, equipment, and other similar items for the use of visually handicapped minors in the public schools who may require their use as determined by the state board. (*Sec. 10301, Cal. Ed. Code*)

If a school district or county superintendent is required to temporarily close a children's center or a development center because of fire, flood, or epidemic, the superintendent of public instruction will determine the approximate amounts of state funds which would have been apportioned to the school district or county superintendent for the period involved if there had been no closure. This amount will be apportioned to the school district or county superintendent if the fact of closure has been established to the satisfaction of the superintendent by affidavits of the county superintendent and of the members of the governing board of any involved school district. The amount determined will be apportioned to the school district or to the county board or county superintendent of schools even though no fee was charged or collected from parents of children who attend the center. (*Sec. 16618.5, Cal. Ed. Code*)

School districts or a county superintendent of schools may maintain, with the superintendent's approval, one or more development centers for children between the ages of three and 21 who reside in or who are in the custody of persons residing in the district or county. The governing body or county superintendent will determine the hours, days, and months during which the development center is to be maintained. If a county superintendent maintains a development center, it will be on terms and conditions provided for in a written contract between the county superintendent of schools and the governing body of each school district. (*Sec. 16645.2, Cal. Ed. Code*)

The superintendent of public instruction will establish reasonable and uniform standards for development centers and for the admission of children. (*Sec. 16645.4, Cal. Ed. Code*)

Governing boards maintaining a development center may allow children from other districts to attend the center upon conditions mutually agreed to by the governing boards of both districts. The terms and conditions include payment of the costs required or authorized to be paid from the district general fund or a special development center tax levied by the operating district. The amount will be paid from any funds of the contracting school district available for that purpose. (*Sec. 16645.5, Cal. Ed. Code*)

Governing boards may permit the use of or furnish maintenance for buildings, grounds, and equipment of the district and may use existing administrative personnel for the purposes of administering the program for development centers. (*Sec. 16645.6. Cal. Ed. Code*)

Governing boards of districts may enter into agreements with any city, county, or city and county, or other public agency for the use of property, facilities, personnel, supplies, equipment, and any other necessary items. Agreements may be entered into between governing boards and private nonprofit agencies. (*Sec. 16645.7, Cal. Ed. Code*)

The superintendent of public instruction will apportion to the districts or county superintendents necessary amounts to operate development centers. In no event shall the amount apportioned exceed the sum obtained by multiplying $1.75 by the number of hours a child is in attendance at the center. (*Sec. 16645.8, Cal. Ed. Code*)

Any school district or county superintendent maintaining such a center may include in its budget an amount necessary to carry out the program. The board of supervisors will levy a school district tax or county tax to raise the necessary amount. The tax is in addition to any other school district tax or county tax authorized by law. Funds derived from the tax may be expended in addition to state funds and will not operate to affect the operation or the formula for apportionment of state funds provided in Section 16645.8. Any tax funds raised in this section may be used to purchase land or buildings and to make alterations or additions to existing buildings and to purchase furniture, apparatus, or equipment for a development center. Any school district entering into a contract with the county superintendent to establish a development center for the handicapped will be considered as maintaining a development center. (*Sec. 16645.10, Cal. Ed. Code*)

The governing board will establish from the county treasury a fund known as the "development center for handicapped minors fund." All funds received by the district for the operation of the center will be paid into this fund. Maintenance and operating costs shall be paid from the fund. However, any contributions, other than those to the employee retirement system, are to be paid by the district from the general fund or from funds of the district derived from a special tax levied according to Section 14657 or 14758 of the education code or Section 20532 of the government code. No funds of a district derived from district taxes except the tax for the development centers, and no state funds other than those appropriated from the general fund for the support of the development centers may be expended in connection with such a center. (*Sec. 16645.11, Cal. Ed. Code*)

If, during any fiscal year, a development center received more or less than the amount to which the center was entitled, the superintendent during the next or any succeeding fiscal year will withhold from or add to the apportionment in the amount of the excess or deficiency. (*Sec. 16645.12, Cal. Ed. Code*)

The state department of education may accept funds from the U.S. government and apportion them to governing boards of districts to conduct development centers which are also authorized to accept such funds. (*Sec. 16645.13, Cal. Ed. Code*)

The superintendent of public instruction will establish the standards to issue permits for persons employed by the center. (*Sec. 16645.14, Cal. Ed. Code*)

Persons employed in a development center in positions requiring certification are subject to the same rules and regulations. They are also eligible for the same benefits as are all teachers within the school district maintaining the center. (*Sec. 16645.16, Cal. Ed. Code*)

The governing board of the district may adopt reasonable rules and regulations to govern the centers that are not in conflict with the laws and standards or regulations of the superintendent. Local rules and regulations may include admission of children and their exclusion from such centers. (*Sec. 16645.17, Cal. Ed. Code*)

No provision may require medical examination or immunization for admission to a development center for a child whose parent or guardian files a letter with the governing board stating that the medical examination or immunization is contrary to his religious beliefs or provides for the exclusion of a child from a center because of the parent or guardian having filed such a letter. If there is cause to believe the child is suffering from a contagious or infectious disease, he may be temporarily excluded until the governing board of the district is satisfied that any contagious or infectious disease does not exist. (*Sec. 16645.18, Cal. Ed. Code*)

Children enrolled in the development centers, who are absent on account of illness or quarantine, are considered in regular attendance for the number hours per day for which they are enrolled for state apportionment purposes. All attendance is reported according to the requirements of the superintendent of public instruction. (*Sec. 16645.19, Cal. Ed. Code*)

Any development center may be discontinued at the discretion of the governing board of the district giving prescribed notice. At least 30 days before the discontinuance of a center, the governing board must mail (to each person having custody of a child in attendance at the center) notices of the intent to discontinue it and the date it becomes effective. (*Sec. 16645.20, Cal. Ed. Code*)

An advisory committee on development centers will be established to aid in setting standards for the admission to centers and to advise the department of education in the administration and operation of the centers. The committee consists of one member from the department of social welfare appointed by the director of social welfare, one member from the department of mental hygiene appointed by the director of mental hygiene, one member from the department of public health appointed by the director of public health, one member from the department of education and appointed by the director of education, one member from the general public, one parent of a handicapped minor appointed by the director of education, and four members each from a school district or county superintendent of schools' office participating in the program appointed by the director. (*Sec. 16645.23, Cal. Ed. Code*)

Governing boards of any school district or the county superintendent of schools may provide transportation of children between the home and the center. The superintendent will allow, to each school district or county superintendent, an amount equal to the current expense of transporting severely handicapped children, but not exceeding $675 for each unit of ADA in the center per year resulting from the attendance of children transported between home and the center. Average daily attendance as used in this section will be determined on the basis of 250 days a year. (*Sec. 16645.24, Cal. Ed. Code*)

The superintendent of public instruction shall provide coordinating, consultative, and supervisory services for programs for development centers for handicapped minors who employ personnel to devote their entire time to the provision of such services. (*Sec. 16645.25, Cal. Ed. Code*)

Specialized preparation means training and education designed to prepare persons to serve as librarians and to teach librarians to serve as teachers for exceptional children as designated by the credential. A degree includes any certificate, diploma, or other document granted by a foreign institution of higher learning, regardless of its graduation policies, certified by the state board as representing academic qualifications and standards equivalent to those of a degree granted by universities or colleges in the United States and performing academic requirements for California teaching credentials. (*Sec. 13188, Cal. Ed. Code*)

The state board of education may issue a standard teaching credential with a specialization in elementary teaching, secondary teaching, or junior college teaching to any person, who holds a regular general elementary, secondary, or junior college teaching credential and who has completed the specialized preparation to become a teacher of exceptional children. The credential will authorize service at any educational level in the public schools but only as a librarian or teacher of exceptional children in the area of specialized preparation completed. (*Sec. 13197.55, Cal. Ed. Code*)

The department of education may pay, from the available funds, the expenses of any deaf student attending Gallaudet College on scholarship from the college who is a graduate of the California School for the Deaf at Berkeley or Riverside or a high school in California or who has been a resident of California for at least two years and has been enrolled in or is attending a private or public college or university in California. (*Sec. 25610, Cal. Ed. Code*)

The director of education may authorize the California School for the Deaf to maintain testing centers for deaf and hard of hearing minors. The centers will test hearing acuity and give any other tests necessary in order to advise parents and school authorities about an appropriate educational program for any child. *(Sec. 25653, Cal. Ed. Code)*

In conjunction with the California School for the Deaf, the state department may establish preschool and kindergarten service for care and teaching of hearing impaired children under school age. The department will prescribe the rules and regulations governing the conduct of the preschool and kindergarten service and appoint any necessary teachers. *(Sec. 25651, Cal. Ed. Code)*

Also in connection with the California School for the Deaf, the state department of education may offer classes of instruction to parents of deaf children to assist and instruct the parents in the early care and training of such a child, to train the child in play, and to do everything which will assure the child's physical, mental, and social adjustment to his environment. *(Sec. 25652, Cal. Ed. Code)*

"It is the intent and purpose of the Legislature in providing for the establishment and/or in conjunction with individual state colleges, under this Chapter, or of laboratory classes for exceptional children, to accomplish the following general aims: improve programs presently offered within the state college system for the training of teachers in the education of exceptional children, and afford prospective teachers with direct experience with typical exceptional children; provide facilities and workshops who need a systematic system of continuing research and development of methods, means, or techniques in teaching exceptional children shall be conducted; accelerate the recruitment and training of prospective teachers of exceptional children and provide in-service training for credentialed teachers to improve their skills; provide or combine a comprehensive college level program of research and teacher training to meet the needs of exceptional children such as will serve to attract and effectively utilize available public and private funds and grants; and provide for increased and improved special educational services for exceptional children through cooperation and coordination with local school districts and county offices." *(Sec. 24351, Cal. Ed. Code)*

Laboratory schools or classes will be considered for certified financial support as separately budgeted, for each budget request submitted by the state colleges and in the budget act. *(Sec. 24352, Cal. Ed. Code)*

School districts and county superintendents of schools may contract with sheltered workshops and other work establishments (approved for supervised occupational training for physically handicapped and mentally retarded minors) and may reimburse them for the expenses incurred in the training of such minors. *(Sec. 6932, Cal. Ed. Code)*

The state department of education, through the state employment service, will cooperate with local school officials and the state department of education in placing physically handicapped individuals. *(Sec. 6819, Cal. Ed. Code*

No person may teach blind, partially seeing, hard of hearing, speech handicapped, or orthopedically handicapped children in special day or remedial classes who does not hold a valid credential authorizing such teaching. Teachers substituting in special day classes for not more than 20 days in any school year may hold some other valid credential authorizing substitute teaching. *(Sec. 6820, Cal. Ed. Code)*

By September 1, 1975, all persons employed to teach deaf, severely hard of hearing, blind, partially seeing, aphasic, or speech handicapped persons in homes, hospitals, or licensed children's institutions must have a valid credential for such teaching. Persons without a credential may teach less than 20 days a year as a substitute. The 20-day period may be extended on an individual basis but not beyond that school year. *(Sec. 6820.1, Cal. Ed. Code)*

The state department may cooperate with the American Printing House for the Blind to provide and distribute braille books and other materials and equipment available to blind pupils in the public schools. *(Sec. 6821, Cal. Ed. Code)*

The state department will establish and maintain nursery school-parent institutes at the schools for the deaf in Riverside and Berkeley for preschool deaf children between the ages of three and six and their parents or guardians. Each nursery school-parent institute will be maintained for at least one, but not more than two, calendar weeks per school year. The institute will provide a program designed to assist and instruct parents of preschool deaf children in the early care and training of the child as well as to promote communication skills of the child and to do everything to help assure the physical, mental, social, and communication development of the deaf child. Any preschool deaf child and his parents or guardians receiving individual instruction at school or at home are not eligible for attending the institute. The department will make annual budget arrangements for carrying out this act. Budget arrangements include provisions for all expenses, including lodging and meals for the deaf child and his parents or guardians. *(Sec. 6822, Cal. Ed. Code)*

The position of field worker is created in the California School for the Blind. The field worker shall be a member of the teaching staff of the school and shall visit graduates and former pupils in their homes to advise them regarding extension and continuance of their education, assistance with carrying remunerative employment, improvement of their economic conditions in all possible ways, and provision of preparatory instruction necessary for selected occupation. The field worker is a person who has had special training for such work. Blindness will not be grounds for disqualification. (*Sec. 25803, Cal. Ed. Code*)

In connection with the school for the blind, the state department may maintain a kindergarten service for care and teaching of children under school age. The department will prescribe the rules and regulations and will govern the conduct of the kindergarten service. (*Sec. 25901, Cal. Ed. Code*)

The state department, also in connection with the school for the blind, will create the position of visiting teacher to blind children of preschool age. With the consent of the parents of any blind children of preschool age, the visiting teacher will assist and instruct parents in the early care and training of the child, train the child to play, and do everything to assure the child's physical, mental, and social adjustment to his environment. (*Sec. 25902, Cal. Ed. Code*)

Up to $200 may be allowed by the superintendent for physically handicapped, mentally retarded, and educationally handicapped minors attending a public secondary school who may qualify for a driver's allowance for the necessary driver training instruction. (*Sec. 17305.7, Cal. Ed. Code*)

PRIVATE

School districts may provide for the instruction of educationally handicapped children residing in all regularly established, non-profit, tax exempt, licensed children's institutions within the district. Under such a program pupils who are unable to function in a school setting and who are not attending school, receive instruction at the appropriate grade level in the institution. A pupil residing in the institution who is able to function in a school setting receives instruction at the appropriate grade level in the public school facilities. The governing board may contract with the county superintendent of schools for the provision of such programs. (*Sec. 6751.5, Cal. Ed. Code*) See Finance.

"It is the intent and purpose of the legislature in enacting this chapter to provide special education facilities and services to exceptional children who, because the school district or county superintendent of schools of the county in which they reside, have no appropriate special education facilities and services or they cannot reasonably provide for their needs, or because the state of California has no facilities to educate them, are unserved by the state school system or by state institutions or agencies. It is the further intent and purpose of the legislature to provide the department of education with broad administrative discretion consistent with the needs of exceptional children in the intent of this chapter in carrying out the responsibilities under this chapter. The superintendent of public instruction may adopt rules and regulations consistent with this chapter which he deems necessary for the effective administration thereof." Exceptional children in this chapter includes educationally handicapped, physically handicapped, mentally retarded, severely mentally retarded, and multiply handicapped children as defined in the Population section. (*Sec. 6870 Cal. Ed. Code*)

Any school district having a physically handicapped, mentally retarded, severely mentally retarded, educationally handicapped, or multiply handicapped minor fro whom special education facilities are unavailable in the state of California, may, in lieu of establishing and maintaining the special education facilities at an unreasonable cost, pay to the parent or guardian of the child toward the tuition of a public or private non-sectarian school, institution or agency within or without the state offering the needed services. The amount paid may not exceed the per unit of average daily attendance of the regular state apportionment to the district. Reimbursable tuition includes the cost to the parent or guardian of transporting a minor enrolled in a public or private non-sectarian school under this section to and from school. (*Sec. 6871, Cal. Ed. Code*)

This section also applies if special facilities are available within the state but at an unreasonable distance from the child's home. The superintendent shall implement the rules and regulations to determine "unreasonableness." County superintendents shall determine the "unreasonableness" of cost and distance for the districts within their jurisdiction and report to the superintendent.

In addition, these provisions are applicable if the attending physician of a physically handicapped, mentally retarded, severely mentally retarded, multiply handicapped, or educationally handicapped child or the attending optometrist of a physically handicapped child who is blind, partially seeing, or visually handicapped recommends that it is in the best interests of the health and welfare of the child to be enrolled in a private non-sectarian school, institution, or agency offering special services and facilities made necessary by the child's disabilities. The recommendation must be approved by the county superintendent and the county health officer.

Priority will be given to placing children in public school or state-operated programs. Children will be placed in private programs only if no publicly operated programs are available within a reasonable distance of the child's residence or if the public programs do not meet the needs of the child. When approving private programs, priority will be given to those nearest the parent or guardian of the child resides. Schools enrolling exceptional children shall annually file a progress report with the appropriate county superintendent. (*Sec. 6871, Cal. Ed. Code*)

The parent or guardian of the child who has been denied admission and qualifies for tuition payments will make a written application to the school district for the tuition payment. Within 30 days after receiving the application, the school district must, in writing, grant or deny the application with reasons stated in cases of denial. If the application is denied, the parents or guardians may appeal to the county superintendent of schools who shall review the decision of the school district, and within 30 days after the appeal, either defer to or reverse the school district's decision. If the county superintendent of schools reverses the decision, a report and claim shall be made by the school district in which the minor resides. Then the county superintendent contracts for the placing of the exceptional child in another school district within or without the county. The superintendent may then transfer, to the district or county where the child was placed, the amount of state aid the placing district receives for the child. If the county superintendent of schools confirms the school district's decision, the parent or guardian may, within 10 days following receipt of the county superintendent's decision, further appeal to the department of education for reconsideration. Within 30 days after the receipt of the appeal, the department must, in writing, either affirm or reverse the decision of the county superintedent. In the case of an affirmation, a statement of reasons shall also be sent. If the department affirms the decision of the county superintendent, that decision shall be final. If the department reverses the decision, a report and claim will be made by the school district in which the minor resides. (*Sec. 6871.5, Cal. Ed. Code*)

School districts having any children receiving benefits from special education services under this section will report the attendance of these children and submit any claims the district may have for the regular and special purpose apportionment to be used in payment to the parent or guardian of the child toward tuition arising out of this attendance through the county superintendent to the superintendent of public instruction. The aforementioned report and claims are submitted at the time and in a manner prescribed by the superintendent. The county superintendent must verify the attendance and claims submitted. (*Sec. 6872, Cal. Ed. Code*)

Upon verifying the attendance, the superintendent will apportion, to the school district submitting the report and the claim, an amount sufficient to satisfy the claim, but not in excess of the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question, the amount allowed per unit of ADA for the particular disabilities under Section 18102, 18102.2, 18102.4, or 18102.6, and the amount per unit of ADA for that particular category under Sec. 18060. For multiply handicapped children, the apportionment shall not exceed the sum per unit of ADA of the state's regular apportionment to the district, the amount allowed per unit of ADA under Section 18102 and the amount allowable per unit of ADA for the particular category under Section 18060.

Apportionments for physically handicapped, mentally retarded, and multiply handicapped children are made from funds reserved under provisions of Section 17303.5(c),. Apportionments for educationally handicapped children will be made from funds reserved under the provisions of Section 17303.5(g). State aid is paid for each fiscal year immediately following the fiscal year in which attendance occurs. (*Sec. 6873,, Cal. Ed. Code*)

No claim will be satisfied by the superintendent for the education of an exceptional child under this section, unless the school, institution, or agency (at which the child attends) meets minimum educational standards established by the state board of education. (*Sec. 6874, Cal. Ed. Code*)

The state board of education is responsible for adopting rules and regulations relating to the educational program to be offered at these schools, institutions, or agencies. (*Sec. 6874, Cal. Ed. Code*)

PERSONNEL

"The governing board of the school district or county superintendent of schools, in order to assure having teachers qualified to teach physically handicapped and mentally handicapped pupils enrolled in programs of special education maintained by such districts of the county superintendent of schools, and any employee of the district or county superintendent of schools holding a position requiring certification qualifications, or any certificated person under contract to the district or the county superintendent of schools to teach physically handicapped or mentally retarded pupils, may enter into an agreement whereby the district or the county superintendent of schools may make or grant financial assistance, in such amount not in excess of that specified in Section 6877, as they may in writing agree upon, for the set employee or certificated person under contract to undertake during the summers between academic school years specialized preparation to teach physically handicapped or mentally retarded minors as required by law and the state board of and education counties regulations." By October 31 yearly, the superintendent will allow to districts an amount sufficient to reimburse for the total of the grants made during the immediately preceding summer. *(Sec. 6876 Cal. Ed. Code)*

"The amount of reimbursement allowed a school district, the county superintendent of schools under Section 6876 cannot exceed the product of the number of semester hours taken in any given summer and $50.00. The total amount of reimbursement allowed for all such grants to any given employee or certificated person under contract shall not exceed the product of the number of semester or hours of special preparation required by law and the state board for the credential to teach the category of physically handicapped and mentally retarded pupils being sought at $50.00. No more than five years shall elapse between the first and final allowance in reimbursement of such grants of any given employee or certificated person under contract without the express approval of the superintendent upon the recommendation of the governing school boards of the district or the county superintendent of schools." *(Sec. 6877, Cal. Ed. Code)*

The superintendent will establish rules and regulations to administer this program of grants. *(Sec. 6878, Cal. Ed. Code)*

In cooperation with an accredited college or university, the director of education may authorize the California schools for the neurologically handicapped to maintain teacher training courses to prepare teachers to instruct neurologically handicapped children in special classes in the public school system. The director of education, in cooperation with an accredited college or university, will prescribe the standards for the admission of persons to the courses and the contents of the courses. Courses conducted in the schools will be counted toward the requirements of the credential in the area of the educationally handicapped upon the establishment of such a credential. *(Sec. 26452, Cal. Ed. Code)*

In order to prepare blind California residents to do social work with the blind, the California school may give special courses of instruction to blind students who have received collegiate training in social services. The California school may also issue a special social service certificate to those students who complete the course satisfactorily. The director of education may authorize the California School for the Blind to establish and maintain either independently or in cooperation with the University of California or a state college, teacher training courses for teachers of the blind. The director of education establishes course content and standards for admission. *(Sec. 25904 and 25905, Cal. Ed. Code)*

The director of education may authorize the California School for the Deaf to maintain teacher training courses to prepare teachers of the public schools and any other persons holding the credentials issued by the state board or recommended by the president of the state college, to give instruction to the deaf and hard of hearing. The standards for the admission of persons to the courses and for any other courses will be prescribed by the director of education. *(Sec. 25557, Cal. Ed. Code)*

FACILITIES

"An amount not to exceed three and one-half percent of the sum of any sum appropriated by the legislature of the 1952 second extraordinary session and not to exceed three and one half percent of the total amount of any state bonds heretofore or hereafter authorized by the electorate for state school building aid may be expended by apportionments pursuant to this article for assistance to school districts in providing necessary housing and equipment for the education of exceptional children. All the provisions of article 1 (commending with Section 19551) and Article 2 (commencing with Section 19651) of this chapter, except Sections 19556 and 19581 shall apply to this article unless otherwise provided herein." *(Sec. 19681, Cal. Ed. Code)*

Exceptional children, as used in this article, includes physically handicapped, mentally retarded, multiply handicapped and educationally handicapped children. *(Sec. 19682, Cal. Ed. Code)*

The obligation of any district, which receives an apportionment under this article to pay this apportionment, does not extend to more than one-half of the amount of the aid. *(Sec. 19684, Cal. Ed. Code)*

With the approval of the county superintendent, school districts may apply for an allocation under this section for facilities for which state aid will be made available for use by the county superintendent until he ceases to conduct the classes or until the superintendent of schools of the county (other than the county whose superintendent of schools approves the allocation) acquires jurisdiction over the location of the facility, whichever occurs first. No more than 50 percent of any state aid made will be repaid. Repayments will be made in the following manner: 10 percent of the amount will be subject to repayment by the district to the extent in the manner prescribed by Article 1 (*Sec. 19551-19632*) for apportionments other than those made in pursuant to Section 19577. Forty percent of the amount will be repaid in full with interest by the district in an annual amount over a period of years determined by the board but, not exceeding 20 years from the date the apportionment becomes final, the county board of supervisors in whose county whose superintendent of schools conducts classes in the facility during any fiscal year shall at any time or time within the fiscal year may be agreed upon between the county and the school district but never later than the end of the fiscal year per the school district having the obligation to repay the apportionment in amount equal to the amount the district is required to repay in said fiscal year with respect to the forty percent of the amount of the apportionment described above. The county board of supervisors may raise the amount required by a general tax levy or by a tuition charge not exceeding $160 a year per pupil by the county superintendent of schools to the school district or residence of pupils attending the facility other than the district having the obligation to repay or through a combination of these.

Upon the application of a school district and written approval of county superintendent, the board may amend any previous apportionment received by a district for exceptional children. Only the unpaid balance of the apportionment at the time of the amendment of the apportionment with accrued interest to that date would be repaid as prescribed in this section. The county superintendent of schools will notify the county board of supervisors of his intention to approve a school district's application or allocation under this section. (*Sec. 19685, Cal. Ed. Code*)

By July 10 each year the county superintendent (of the county in which there is a district maintaining facilities for exceptional children constructed with funds under this article) shall certify to the board of supervisors and to the county auditor the total number of units of ADA pupils enrolled in these facilities during the next preceding fiscal year who reside in the district other than the district maintaining the facility. As of July 10 of each year the county superintendent will notify the governing board of each affected district of the total number of units of average daily attendance of pupils residing in the district who are in that attendance at the facility maintained by another district. (*Sec. 19686, Cal. Ed. Code*)

By July 20 of each year, the governing body of a school district which has received a notification will notify the county board of supervisors and the county auditor of the amounts required to be paid on behalf of the district be provided from a general fund of the district or by a special district tax levied by county board of supervisors. If the district notification specifies it, the amount required will be provided by a special district tax or, if no notification is made, the board of supervisors with whom the certificate prescribed by Section 19865 is filed, will at the time and in the tax levy for that year for the county purposes, levy a special tax upon all taxed property in the district or residence of each pupil enrolled in the facilities, other than the district or residence of each pupil enrolled in the facilities, other than the district maintaining the facilities sufficient to raise for the use of the facilities the sum of $160 per unit of ADA or sending amounts per the unit of average daily attendance remaining in the county school building aid fund from more recent collections made in the prior years and not paid to the state. (*Sec. 19687, Cal. Ed. Code*)

If the board of supervisors fails to make such a levy, the auditor will then make it. If a governing board of the school district has elected to provide from a district general fund the amounts due, the county superintendent of schools will order the payment made in the required amount from the general fund of the district. (*Sec. 19688, Cal. Ed. Code*)

The governing board of a school district determines, subject to the approval of the county superintendent, the amounts to be collected within the district by special taxes. If credits to the district and the county school building aid funds are substantially in excess of amounts required for the ensuing three year period, the county may order the payment to the district from the county school building fund of so much and such excess monies as he deems appropriate (or from the district to the county) (*Sec. 19688.5, Cal. Ed. Code*)

The county auditor, no later than the last Monday in December and the last Monday in May of each year, will notify the superintendent of schools of the amounts in the county school building aid fund. The superintendent will then draw his order on the county auditor in the favor of the state treasurer for the amount in the county school building aid fund of the county. The total of such building aid fund of the county that the total of such orders for any year may be limited to an amount not exceeding the total of

$160 per each unit of ADA during the next preceding fiscal year students residing in the district other than the district maintaining the facility. The amount will be paid by the county treasurer upon order of the state comptroller and will be deposited in the state treasury to the credit of the state school building aid fund. All money paid to this fund will be available only for transfer to the general fund under provisions of Section 19704 and will be credited to the repayment of the apportionment of funds to the district maintaining the facilities. (*Sec. 19689, Cal. Ed. Code*)

County boards of education of any county providing for the education of handicapped persons residing in the county may, when necessary, construct and maintain dormitories, and fix the rates to be charged. (*Sec. 665, Cal. Ed. Code*)

COLORADO

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall, as soon as practicable,provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of six and 21 years, may be educated gratuitously. One or more public schools shall be maintained in each school district within the state, at least three months in each year; any school district failing to have such schools shall not be entitled to receive any portion of the school fund for that year." *(Art. IX, Sec. 2, Colo. Const.)*

"The General Assembly may require, by law, that every child of sufficient mental and physical ability, shall attend the public schools during the period between the ages of six and 18 years, for a time equivalent to three years, unless educated by other means." *(Art. IX, Sec. 11, Colo. Const.)*

Compulsory Attendance Law: "Any resident of this state who has attained the age of six years and is under the age of 21 is entitlted to attend the public schools in the school district in which he is a resident, during the academic year when the schools of the district are in regular session, and without the payment of tuition, subject only to the limitation of Sections 6 and 7 of this Act. Tuition may be charged for a pupil not resident of the school district in which he attends school, and to resident and non-resident pupils, as otherwise provided by the law." *(Sec. 123-20-3 CRS)*

All children between ages seven and 16 shall attend the public schools for at least 172 days during the school year. Exceptions may be made to this law if the child is absent for an extended period due to physical, mental, or emotional disabilities.

The child who is deaf or blind and has attained the age of six years and is under the age of 17 shall attend during the school year for at least 172 days, at a school providing suitable specialized instruction. If the Colorado School for the Deaf and the Blind refuses him admission and if it is impracticable to arrange attendance in a special education class, within daily commuting distance of the child's home, this section does not apply. Any school providing instruction for deaf and blind children that offers less than the necessary 172 days shall file, with the school district in which it is located, a report showing the number of days classes were held and the names and ages of the children enrolled. *(Sec. 123-20-5 CRS)*

Children will be excused from the compulsory education requirements if a reputable physician certifies in writing that the child's bodily or mental condition does not permit his attendance at school. *(Sec. 123-20-12 CRS)*

Boards of education of local school districts may expel or suspend children from the public school during the school year for behavior which is inimicable to the welfare, safety, or morals of other pupils. The children may be expelled or denied admission to the public school because of a physical or mental disability which renders the child unable to reasonably benefit from the available programs or because a physical or mental disability or disease causes the attendance of the child to be inimicable to the welfare of other pupils. *(Sec. 123-2-7 CRS)*

Policy: "The General Assembly hereby declares the purpose of this article is to provide means for educating those children in the state of Colorado who are physically, mentally, educationally or speech handicapped." *(Sec. 123-22-2 CRS)*

"The general assembly declares that the purpose of sections 123-22-12 to 123-22-14 is to employ current educational technology to determine the educational needs of Colorado children who have learning disabilities and to create an information system which the generaly assembly may use to support a statewide plan through which such children may share an equal opportunity to overcome such learning disabilities." *(Sec. 123-22-12 CRS)*

Responsibilities: Each board of education may until July 1, 1976, and shall thereafter make available a special education program for any physically, educable mentally, educationally, or speech handicapped child resident of the school district. School districts may operate programs singly or jointly. *(Sec. 123-22-8 CRS)*

POPULATION

Definitions: " 'Physically handicapped children' means those persons between ages three and 21 who are crippled or orthopedically or aurally or visually handicapped to the extent that it becomes impractical or impossible to participate in or benefit from the classroom programs regularly provided in the public schools, and whose education requires modification of such normal educational programs.

" 'Educable mentally handicapped children' are those persons between the ages of five and 21 whose intellectual development renders them incapable of being practically and efficiently educated by ordinary classroom instruction in the public schools, but who nonetheless possess the ability to learn and may reasonably be expected to benefit from special programs designed to aid them in becoming socially adjusted and economically useful.

" 'Educationally handicapped children' means those persons between the ages of five and 21 years, who are emotionally handicapped or perceptually handicapped, or both, and who require special education programs."

"Pending the definition of the term 'learning disability' as called for in the information system required by sections 123-22-12 to 123-22-14, such term shall be construed to mean any impediment to the learning process, whether traceable to physical, mental, emotional, or social disorder or to any other identifiable defect in a child's ability to derive educational benefits from the public schools of this state." (*Sec. 123-22-12 CRS*)

Age of Eligibility: Physically handicapped children are eligible for special education services from age three to 21. Educable mentally handicapped and educationally handicapped children are eligible for services from ages five to 21. (*Sec. 123-22-3 CRS*)

Trainable mentally retarded and other seriously handicapped persons receive services under community incorporated boards. Children are eligible for these services when they are "at least of such an age that, but for his mental retardation or serious handicap, he would be enrolled in the regular school program in the district," until age 21. (*Sec. 71-8-2 CRS*)

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: Determination of a physical handicap will be made by an individual examination conducted by a licensed physician. If the handicap is a visual handicap, the determination will be made by a vision specialist, as well as a physical examination made by a physician.

The determination of mental handicaps must be made by an individual examination conducted by a psychologist with the consent of the parent or guardian of the child. If the parent or guardian disagrees with the psychologist on the determination to place the child in a special program, the parent or guardian may refer the child to a psychologist of their own choice and at their own expense. This evaluation is submitted to the board of education. The board has the ultimate right of placement of children attending the public schools in their jurisdiction.

Determination of the existence of an educational handicap is made with the consent of the parent or guardian by a committee of professionally qualified personnel appointed by the board. The composition of the committee is prescribed by the state board of education and may be composed of, but not limited to, a psychologist, a social worker, a physician, and a school administrator and a teacher of the educationally handicapped. (*Sec. 123-22-7 CRS*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for maintaining qualified personnel to supervise special education through utilization of the existing facilities of the state departments of health, welfare, rehabilitation, and institutions whenever possible. The state board also has the authority to adopt reasonable rules and regulations for the administration of this article. (*Sec. 123-22-5 CRS*)

In addition, the state board is responsible for prescribing the minimum physical facilities necessary for special education programs, diagnostic criteria, minimum and maximum enrollments, and all special education personnel certification requirements. (*Sec. 123-22-6 CRS*)

The state school for mentally retarded children shall be under the supervision of the department of institutions. (*Sec. 71-4-1 CRS*)

The state school for the deaf and the blind will be under the supervision of the department of institutions. (*Sec. 16-1-4 CRS*)

The department of institutions administers the program for the trainable mentally handicapped and other seriously handicapped persons. (*Sec. 71-8-3 CRS*)

PLANNING

Every district either singly or in combination with another district or a board of cooperative services must submit a comprehensive plan for the provision of special education to the state board by January 1, 1974.

If a district fails to submit an acceptable plan by the appointed date the state board will, prior to July 1, 1974, devise and recommend a comprehensive plan for the district. (*Sec. 123-22-8 CRS*)

Prior to February 1, 1973, the department must submit to the general assembly a system including but not limited to, the following:

1. a comprehensive report on successes and failures of "Handicapped Children Educational Act" which includes the number of children served and not served, types of services received, cost of services, sources of funds, and the educational outcomes of these services;
2. definition of all types of learning disability discovered in a "thorough study" of Colorado preschool and school aged children ($186,000 is appropriated to carry out this study);
3. number and general location of children by category of disability, including children with multiple disabilities;
4. a description of the present methods and proposed methods to diagnose children in each category of disability;
5. recommendations of the types of appropriate programs to remediate diagnosed learning disabilities, their cost, and minimum standards for personnel, facilities, materials, and necessary equipment;
6. an analysis of the estimated relative cost-benefit and cost-effectiveness ratios for each of the remediable learning disabilities and interrelationship of economic factors among such ratios;
7. an analysis of the impact of statewide support for learning disability programs on general state support of public education; and
8. an accountability instrument compatible with the established programs under the "Educational Accountability Act of 1971" and accomplishes the act's purposes for the purposes of remediating learning disabilities. (*Sec. 123-22-13 CRS*)

To assist the state department in performing its responsibilities in implementing sections 123-22-12 to 123-22-14, the board will appoint a special education advisory committee. The committee must include at least two special education teachers, two administrators experienced in special education, and two parents of children presently or formerly enrolled in special education programs. Members will be appointed for one or two-year terms. (*Sec. 123-22-14 CRS*)

FINANCE

The board of education of all districts eligible for reimbursement must file with the state board by July 1 of each year, reports containing a statement of costs of approved personnel participating in special education programs, cost of maintenance in foster homes, cost of transportation, and cost of home equipment to the extent that the costs are directly applicable to the provision of special education services. The school district maintaining a special education program approved by the state for physically, educable mentally, educationally and speech handicapped children will be entitled to reimbursement for:

1. 80 percent of the compensation of approved personnel and the cost of home-to-school equipment;
2. 50 percent of the cost of any approved special transportation provided for handicapped children after other state aid is deducted;
3. districts will be reimbursed the full amount of the cost of maintenance of a child in a licensed foster home but not exceeding the average cost of family home care as determined by the social services department for the area of the state in which the home is located; and
4. each district will receive $.20 per child in average daily attendance for the 1973 school year but at least $500 per district to defray costs in preparing required reports for the department. (*Sec. 123-22-11 CRS*)

No reimbursement for special education may exceed 100% of the attributable student costs when combined with all applicable state, private, and federal resources. The district contribution per child must be at least equal to the amount raised per child in average daily attendence by the levy for school district general fund. (*Sec. 123-22-11 CRS*)

If the appropriations are insufficient to cover the reimbursements noted above, all approved reimbursements, except those for maintenance in a foster home, which will always be fully reimbursed, will be prorated on the basis of total claims submitted in proportion to available funds. Payments under this section do not affect the amount of state aid for which a school district may qualify. (*Sec. 123-22-11 CRS*)

For each child enrolled in a program other than in his district of residence, the state board will reimburse the district of residence (for maintenance in the foster home) an amount not exceeding $800 per school year or, in lieu of maintenance, one-half the cost of transportation of the child as provided in Section 123-22-11. Payment for foster home care will only be made for placements in a foster home licensed by the state department of public welfare. (*Sec. 123-22-9 CRS*)

School districts may provide services for handicapped children who are hospitalized or homebound. Approved services may be reimbursed by the state board up to 80 percent of salaries paid teachers and up to 80 percent of the cost of home-to-school equipment which may be either a home-to-school telephone or any other similar device. The board must approve any home-to-school phone or device before it is installed or put into operation. (*Sec. 123-22-10 CRS*)

The department of institutions allocates to incorporated community boards payment on the basis of the number of students in average daily enrollment. The amount of reimbursement per student is uniform for all centers. (*Sec. 71-8-2 CRS*)

"Governmental units, including but not limited to counties, municipalities, school districts, hospital districts, or state institutions of higher learning, are hereby authorized, at their own expense, to purchase services or to furnish money, materials, and services for mentally retarded and for seriously handicapped persons through community incorporated boards, except that each school district shall provide to the community incorporated board which supports programs attended by any mentally retarded or seriously handicapped person domiciled in that district, as a minimum, for each such person attending such programs who is less than twenty-one years of age and is at least of such an age that, but for his mental retardation or serious handicap, he would be enrolled in the regular school program in the district, an amount equal to:

(b) the amount raised per pupil in average daily attendance entitlement in the district by the levy for the school district's general fund, plus

(c) the amount raised per pupil in average daily attendance entitlement in the district from the school district's foundation levy, if the school district foundation levy is not included in the general fund levy." (*Sec. 71-8-2 CRS*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If no special program exists in the school district of residence, the parent or guardian of the child or the board of education of the school district may apply for enrollment of the child in a special program existing in another district. After determining the eligibility and capability of the child and the benefits to be received from such an enrollment and after approval of both boards of education, the child may then be enrolled in the program. Final approval of enrollment of any eligible handicapped child in a special education program is made by the board of education of the school district providing the program. A child may enroll for a trial period not exceeding nine months. (*Sec. 123-22-7 CRS*)

Two or more school districts may contract with each other to establish special education programs sharing the costs as specified in the contract.

If a district has fewer than six children needing a particular type of special education, the board may purchase services from another district. (*Sec. 123-22-8 CRS*)

Community incorporated boards may purchase services for the trainable mentally retarded and other seriously handicapped persons from public or private non-profit sheltered workshops, day care training centers, and other private facilities, and from universities, colleges, public schools, and preschool nurseries with approved programs.

SERVICES

The cost of educating handicapped children may include the compensation of special class teachers, itinerant teachers, speech correctionists, supervisors of special programs, directors of special education, and the cost of consultation and evaluation by psychiatrists, psychologists, and social workers, individual instruction in hospitals or homes, home-school equipment, maintenance in licensed foster homes and transportation to and from schools. However, no state money distributed to the above may be used for medical costs or for the erection or repairs of school buildings. (*Sec. 123-22-4 CRS*)

Psychologists will include anyone who is properly certified as a school psychologist by the state board of education or who is properly certified as a psychologist by the Colorado board of examiners or has a minimum of two years of graduate training in psychology supervised by a psychologist as defined above and is employed as a psychologist by an institution of higher education, hospital, or agency, supported at least in part by government funds. (*Sec. 123-22-23 CRS*)

The superintendent of the state school for the deaf and the blind may spend any necessary monies from the appropriation for the support of the school to provide readers for blind residents of the state and graduates of the school who regularly matriculate and study for a degree in any institution of higher education or any conservatory of music approved by the board of trustees of the state school for the deaf and the blind. These funds may also be used to help defray expenses of deaf persons taking a collegiate course of instruction at Gallaudet College. (*Sec. 16-1-20 CRS*)

The school for the deaf and the blind may establish a program of instruction in understanding the needs, problems, and education of the deaf and blind for parents of deaf and blind children attending Colorado schools. The department of institutions may provide for the cooperation of the school with any other interested state agencies in carrying out this program. (*Sec. 16-1-26 CRS*)

The superintendent of the Colorado School for the Deaf and the Blind may spend any money necessary out of the appropriation for the school to provide for the education and training of eligible deaf-blind students, of students having a multiple physical handicap of hearing, sight, and speech in institutions outside the state equipped to provide the appropriate education and training for these students, or by employing a skilled person as a home teacher trained in teaching deaf-blind students or students having a multiple physical handicap of hearing, sight, and speech. The compensation of any such person may not be greater in any one instance than the expense of the education of such pupils in any institution outside of the state.

Any institution selected or persons employed for educational training of deaf-blind students or students having a multiple physical handicap of hearing, sight, and speech must be approved by the board of trustees of the Colorado School for the Deaf and the Blind. (*Sec. 16-2-24 CRS*)

PRIVATE

See Administrative Structure and Organization regarding programs for trainable mentally retarded and other seriously handicapped persons.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

CONNECTICUT

RIGHT TO AN EDUCATION

Constitution: "The fund, called the school fund, shall be made a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public, or common schools throughout the state, and for the equal benefit of the people thereof." (*Art. VII, Sec. 2, Conn. Const.*)

Compulsory Attendance Law: No school age child requiring special education shall be excluded or exempted from school privileges without the express approval of the secretary of the school board based upon appropriate professional advice. The secretary then reports any excluded or exempted child to the state agency responsible by law for any aspect of the welfare of the child. (*Sec. 10-76d Conn. Gen. Stats.*)

Local boards of education may compel the attendance of any blind child until he reaches age 16 in an institution providing appropriate instruction. If the parents or guardians of the child do not consent, the director of the board may apply to the probate court in the district where the child resides. Reasonable notice of a court hearing must be given to the parents and guardians of the child. If the court finds the action warranted, they will issue an order concerning attendance of the child at a suitable school or institution. (*Sec. 10-296 Conn. Gen. Stats.*)

Town boards of education and regional school districts shall make provisions necessary to enable resident children who are between ages seven and 16 and who are in suitable mental and physical condition, to attend a public day school for a period required by law. (*Sec. 10-220 Conn. Gen. Stats.*)

Responsibilities: In accordance with the regulations of the state board, all town and regional school districts shall provide special education to all school age children requiring it until they graduate from high school or reach age 21, whichever occurs first. School districts may provide special services to those children with "extraordinary learning ability" or "outstanding creative talent." They may also provide education to those children below school age, if their educational potential would be irreparably diminished without it. (*Sec. 10-76 Conn. Gen. Stats.*)

POPULATION

Definitions: "'Exceptional child' means a child who deviates either intellectually, physically, socially, or emotionally so markedly from normally expected growth and development patterns that he is or will be unable to progress effectively in a regular school program and needs a special class, special instruction or special services."

"'Children requiring special education' include an exceptional child who: (1) is mentally retarded, physically handicapped, socially or emotionally maladjusted, neurologically impaired, or suffering an identifiable learning disability which impedes rate of development and will be improved by special education; or (2) has extraordinary learning ability or outstanding talent in the creative arts, the development of which requires programs or services beyond the level of those that are ordinarily provided in a regular school program, but which may be provided for special education as part of the public school program."

"A 'mentally retarded' child means one who by reason of retarded mental development, is not capable of profiting from the educational programs of the public schools established for the normal child, but shall not include any child who requires custodial care, or who does not have clean bodily habits, responsiveness to directions, or means of intelliglbe communications; an 'educable' mentally retarded child means one who, at maturity cannot be expected to attain a level of intellectual functioning greater than that commonly expected from a child of 12 years of age, but who can be expected to attain a level of intellectual functioning greater than that of a seven year old child."

"A 'trainable' mentally retarded child means one who at maturity cannot be expected to attain an intellectual functioning greater than that commonly expected of a seven year old child and who, for entrance into a public school program, can walk, has clean bodily habits, and is responsive to simple direction."

"A 'physically handicapped child' is one who, because of a physical handicap as defined by the regulations of the state board of education, requires special educational programs or services."

"A 'socially or emotionally maladjusted child' or 'neurologically impaired child' is one who is incapable of profiting from the general education programs of the public schools because of some serious social or emotional handicap or an impairment of the nervous system, respectively as defined by regulations of the state board of education, but who is expected to profit from special education. 'Learning disabilities', extraordinary learning ability' and 'outstanding creative talent' shall be defined by regulations of the secretary, subject to the approval of the state board of education, after consideration by him of the opinions of appropriate specialists and of the normal range of ability and rate of progress of children in the Connecticut public schools."

Age of Eligibility: Service must be provided to children from age 5 until they graduate from high school or reach age 21, which ever occurs first. Services may be provided to hearing impaired children beginning at age 2 and to all other handicapped children at age 3. (*Sec. 10-76a Conn. Gen. Stats.*)

IDENTIFICATION AND PLACEMENT

Census: Each town board of education shall annually ascertain, by December 1, the name and age of resident children under age 21 who are enrolled in the schools as well as the names and addresses of the parents or persons in control of them. If a child of compulsory school age is not attending school, the reason for the non-attendance must be noted. (*Sec. 10-249 Conn. Gen. Stats.*)

Screening: The board of education requires that all public school pupils have health examinations by a licensed medical practitioner or by the school medical advisor at least once every three years to discover if children suffer from any physical disability which would prevent them from receiving the full benefit of school work. (*Sec. 10-206 Conn. Gen. Stats.*)

Special Education Evaluation: Each town or regional board of education is responsible for providing the professional services necessary to identify those children within its jurisdiction who require special education, to determine their eligibility and to prescribe suitable educational programs for them, to maintain records of eligible children, and to make any reports the secretary may require. According to state board rules, town or regional school districts will determine whether a child is eligible for special education upon request of a parent or guardian or upon referral of a physician, clinic, or social worker, with consent of the parent or guardian. (*Sec. 10-76 Conn. Gen. Stats.*)

The parent or guardian of a child requiring special education may submit a request in writing to the board of education of the school district responsible for providing such education, for a hearing and/or review of the diagnosis, evaluation of the special education programs, or the exclusion or exemption from school privileges, of their child. The board must grant the parent or guardian the hearing or review in closed session within ten days of receiving the written request. The hearing and review must be transcribed, and a written copy of the board's decision must be sent to the parent or guardian within ten days of the review with a statement of the right of appeal. Any parent or guardian aggrieved by the decision of the board may appeal within 30 days to the state board of education. In the event of an appeal, upon request and at the expense of the board of education of the school district, the local board will provide a copy of the transcript to the parent or guardian and to the state board of education. (*Sec. 10-76h Conn. Gen. Stats.*)

Parents or guardians of children requiring special education and who are aggrieved by the decision of the local board of education may request, or the board of education of the school district responsible for providing the education may request of the state school board a review in writing of:

1. diagnosis;
2. evaluation of education programs provided for the child by the board of education of the school district; or
3. the exclusion or exemption from school privileges of the child by the board of education of the school district.

The state board shall, upon receiving the request for the review, establish a hearing board consisting of no fewer than 3 persons knowledgeable in the fields and areas significant to the educational review of the child. Members of the hearing board may be employees of the state department of education or qualified persons from outside the department. No persons participating in a previous diagnosis, evaluation, or prescription of educational programs or exclusionary exemption from school privileges or review, or any member of the board of education of the responsible school district may be members of the hearing board. The hearing board shall hear the testimony of the party conducting the review and any other party directly involved, and they will review the previous diagnosis, prescription of special education services, and other educational records of the child. Records are furnished by the board of education of the school district. They may hear any additional relevant testimony and may require complete and independent diagnosis, evaluation, and prescription of educational programs by qualified persons. The cost of this independent study is to be paid by the board of education of the school district responsible for providing services to the child.

The hearing board has the power to confirm, modify, or reject the diagnosis, evaluation, prescribed educational program, or exclusion or exemption of school privilege, and to prescribe alternate special education programs for the child. The board shall inform the parent or guardian and the board of education of the school district of its decision in writing. If the board of education of the school district responsible for providing special education for the child does not take action on the findings or the prescription of the hearing board within 15 days of receipt of them, the state board of education may take appropriate action to enforce the findings or prescriptions of the hearing board. Appeal of the decision of the hearing board is to the Court of Common Pleas in the district of residence of the child within 30 days of receiving the hearing board's decision. Members of the hearing board other than those employed by the state of Connecticut, shall be paid reasonable fees and expenses on a schedule established by the state board of education. (*Sec. 10-76h Conn. Gen. Stats.*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for development and supervision of educational programs and services for children requiring special education. The board may regulate curriculum, conditions of instruction, physical facilities and equipment, size of the class, admission of students, and the requirements for special services and instruction provided by town or regional boards of education.

The board is responsible for supervising the educational aspects of all children requiring special education residing in or attending any child-caring institution and receiving money from the state. The secretary, by regulations of the state board, determines the procedures used to identify exceptional children.

The state board is also the agency for cooperating and consulting with federal agencies, other state agencies, and any private agencies on matters of public school education for children requiring special education. (*Sec. 10-76b Conn. Gen. Stats.*)

The office of mental retardation in the state department of health is responsible for institutional programs for mentally retarded children. The department of mental health administers institutional programs for emotionally disturbed children.

The school for the deaf is under the supervision of the state board of education and the school for the blind is under the state board for the education of the blind. (*Sec. 10-245 Conn. Gen. Stats.*)

PLANNING

By February 15, 1972, the state board of education was to have presented a plan to the joint standing committee on education of the General Assembly for developing and operating regional day and residential programs for children requiring special education, and whose needs could not be met under present public school arrangements. The plan must include feasibility and cost studies. (*Sec. 10-76g Conn. Gen. Stats.*)

In addition, the state board must periodically evaluate progress and accomplishments of special education programs. The joint standing committee on education and the state board shall annually review disbursement of funds, types of projects funded, and evaluation of programs. This review is to apprise the General Assembly of the true condition, progress, and needs of special education. (*Sec. 10-76g Conn. Gen. Stats.*)

The state board, using present personnel, is required to develop and keep current a five-year plan for implementing special education policy. The plan must include provisions for:

1. A census of children requiring special education showing both total number and geographic distribution;
2. An inventory of personnel and facilities available to provide instruction and other programs and services to children requiring special education;
3. An analysis of the present distribution of the responsibility for special education between the state, the state institutions, and local and regional boards of education, together with any recommendations for change;
4. The formulation of goals, objectives, and strategies;

5. A program for recruitment, preparation, and inservice training of professionals, paraprofessionals, and supportive personnel in special education and allied fields including participation by institutions of higher education, state and local agencies, and any other appropriate public and private organizations;
6. Procedures for identification, screening, and diagnosis of children requiring special education and determination of the criteria for how these children should be educated;
7. Standards for education in town and regional programs and state institutions;
8. A program for developing, acquiring, constructing, and maintaining classrooms, resource rooms, and other facilities;
9. A policy for the roles of private schools and regional programs and services;
10. A delineation of the roles of program personnel and relationship of special education to the total educational program; and
11. An analysis of the present formula, levels, and patterns of financial support for special education and recommendations to insure the maximum use of funds.

The development of the state plan must include participation of representatives from state agencies, institutions, public and private colleges and universities, professional and parent groups and organizations, local school boards and other local government and civic organizations, and the general public. The plan must be submitted to the governor and the joint standing committee on education of the General Assembly by December 1, 1973. (*Sec. 10-76j Conn. Gen. Stats.*)

An advisory council for special education is established to advise the state board and the secretary and to engage in other activities. The advisory council is to be composed of 15 members who are not officers or employees of the state board of education. No more than 4 members may be employees of local or regional school districts. The advisory council must be composed of persons broadly representative of community organizations interested in children requiring special education, parents of the children, practicing members of professions concerned with these children's educational needs, and members of the general public. The members shall be appointed by the secretary of the state board for three-year terms. The advisory council shall annually elect its own chairman and any other officers. The representative of the secretary shall meet with and act as secretary to the advisory council. The advisory council members shall serve without compensation but will be reimbursed for reasonable expenses. The state department will provide secretarial and administrative assistance to facilitate the activities of the council. The commissioner for higher education shall also appoint a liaison person to the council. The council's responsibilities shall include:

1. Periodic review of regulations, standards, and guidelines pertaining to special education and recommending to the state board any changes it finds necessary;
2. Comment on new or revised regulations, standards, and guidelines; and
3. Participation with the state board to develop a state plan for the provision of special education.

The advisory council shall annually review, with the joint standing committee on education of the General Assembly, progress made by the state in serving those children requiring special education, and any recommendations made for the improvement of special education of the state. (*Sec. 10-76i Conn. Gen. Stats.*)

Districts may make longterm plans to provide services on a regional basis. See Facilities. (*Sec. 10-76e Conn. Gen. Stats.*)

FINANCE

School districts providing special education for any exceptional children will be reimbursed in an amount equal to 66 2/3 percent of the net cost of providing the special education. Applications for reimbursement must be made by October 1. All reimbursements will be made by December 15. In any case where special education is being provided at a private institution and no school district can be found responsible, the reimbursement provided should be made payable to the institution, and for these purposes the institution shall be considered a school district. (*Sec. 10-76g Conn. Gen. Stats.*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Children placed by the welfare commission, other agencies, or other persons are entitled to all free school privileges of the town in which they reside, unless they are placed in hospitals or custodial institutions. In this instance, reimbursement is provided under Section 10-266. The board of education in the town where the hospital or institution is located will furnish appropriate instruction. Payment is made by the board of education of the town under whose jurisdiction the child would otherwise be attending school. This subsection does not apply to children placed in hospitals or custodial institutions under the special education chapter.

No town is required to provide school accommodations to any child whose legal residence is in another state, unless a bond in the sum of $500 is issued by a state-authorized surety company. The bond is based upon parental payment of the child's tuition at the rate of the per capita cost of education.

Children, residing with anyone who is not a parent or guardian are entitled to all free school privileges accorded in the regional school district or town in which they reside, if the intention is that the residence is to be permanent and provided without pay. Each child is counted in the town in which he is actually residing on the date of the census taking (*Sec. 10-253 Conn. Gen. Stats.*)

See Planning and Facilities.

SERVICES

"Special education" means special classes, programs, or services designed to meet the educational needs of exceptional children in accordance with the regulations of the secretary, subject to the approval of the state board of education." (*Sec. 10-76 Conn. Gen. Stats.*)

Town or regional boards of education may contract with any sheltered workshop or rehabilitation center to provide educational occupational training for children requiring special education and who are at least 16 years of age, if the workshop or institution has been approved by the state board of education. (*Sec. 10-76d, Conn. Gen. Law*)

When providing special educational services, town or regional school districts shall provide transportation, tuition, room, board, and any other necessary items, unless a child is placed in a residential facility because of needs other than educational. The financial responsibility of the district is limited to the reasonable cost of education as defined by regulations of the state board. (*Sec. 10-76d Conn. Gen. Stats.*)

The office of mental retardation shall develop day care, day camp, and recreational programs for mentally retarded children and adults. Nonprofit organizations organized or existing for the purpose of establishing or maintaining such programs may apply through the department of mental health to the office of mental retardation for such funds. Day care programs are defined as programs providing for the care or training of preschool children, or of children inadmissible to the special classes in public schools, and devoted primarily to the training of the retarded in the regimen and procedures necessary for adjustment to public school classes or may be devoted to enabling school-excluded children to achieve their maximum social, physical, and emotional potentials. They may also provide mentally retarded adolescents and adults with an activity program that includes training in one or more of the following areas: self-care activities of daily living, personal and social adjustment, work habits and skills, and speech and language development. (*Sec. 19-4d Conn. Gen. Stats.*)

Day camp programs may provide mentally retarded children or adults with a supervised program of outdoor activities during June, July, August, and September, and recreational programs may provide planned, supervised recreational activities for mentally retarded children or adults. These activities may be of a social, athletic, or purely diversionary nature. Recreational programs will be considered separate from the day camp program. Grants to assist in operating, maintaining, or expanding the establishment of these programs cannot exceed the ordinary, recurring annual operating expenses of the program. No grant shall be made to pay for all or any part of capital expenditures. The office of mental retardation will define the minimum requirements to be met by each program including, but not limited to, physical plant and record keeping. It will also establish procedures to be used in making application for the funds and provide regulations governing the granting of funds. (*Sec. 19-4e Conn. Gen. Stats.*)

The office of mental retardation operates a system of diagnostic clinics for the mentally regarded. The clinics are located geographically to conveniently serve the population of the state. The director of any district department of health, any full time director of health, or any nonprofit organization extending diagnostic services to the mentally retarded may apply through the department of health and the office of mental retardation for funds to maintain or expand a diagnostic clinic for mentally retarded persons. A diagnostic clinic for the mentally retarded shall be an organization devoted to the diagnosis of those provisionally judged to be mentally retarded, to determine the eligibility of the retarded for education, training, or residential care, and recommend an order of priorities for acceptance to residential care. The clinic shall provide psychological evaluations, medical examinations, social casework, or other diagnostic procedures as necessary to accomplish the purposes of this act. Grants for such diagnostic clinics may not exceed 2/3 of the ordinary operating expenses of the clinics. Grants may not cover any part of capital expenditures. The only acceptable reason for refusal of services is place of residence of applicant. (*Sec. 19-4e Conn. Gen. Stats.*)

PRIVATE

Any regional or town board of education may provide necessary services to exceptional children with the consent of the parents or guardians by making agreements with any private school or public or private agency or institution. Expenditures made by a contract with a private school, agency, or institution are not reimbursable unless the special educational needs of the child cannot be met by a public school arrangement.

The secretary, prior to granting contract approval, must consider factors including the particular needs of the child, the suitability and efficacy of the private program, and the economic feasibility of comparable alternatives. If the child is identified as needing special education and the board of education determines that his special eduation needs can be met within the district or by agreement with another district except for the child's non-educational needs, such as medical, psychiatric, or institutional care, the board may meet its obligation to furnish special education for the child by paying the reasonable cost of it in a private school, hospital, or other institution. The board or secretary must concur that such placement is mandatory to provide necessary services. (*Sec. 10-76d Conn. Gen. Stats.*)

PERSONNEL

If it is determined by the commissioner of higher education that there are no approved programs of teacher education available within the state to prepare teachers of deaf children or children with perceptual learning disabilities, the commissioner may approve scholarships for them to attend approved programs in out-of-state schools. The commissioner will determine the amount of the scholarship aid in each case, but the total amount available each year for all applicants may not exceed $6,000. In order to be eligible for scholarship aid, the applicant must agree to teach such children in Connecticut for at least three years. (*Sec. 10-333 Conn. Gen. Stats.*)

FACILITIES

If districts agree to provide special education as part of a long term regional plan approved by the state board for children residing in other school districts, they are eligible to receive an amount equal to the net cost of providing, constructing or reconstructing, and equipping appropriate facilities to be used exclusively for these children. Facilities, in order to be approved by the state board, must be adjunct or connected with facilities in the regular school program, unless the state board determines that separate facilities will be of greater benefit to the children requiring special education. These grants supplement any other aid received for special education. Upon completion of the building project the comptroller pays the lump sum granted to the district for the regional school (*Sec. 10-76e Conn. Gen. Stats.*)

DELAWARE

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child not physically or mentally disabled, shall attend the public schools unless educated by other means." (*Art. X, Sec. 1, Del. Const.*)

Compulsory Attendance Law: All parents, guardians, or other persons having control of a child between the ages of seven and 16 are required to send the child to a free public school all day during the school year. The compulsory attendance requirement does not apply to children whose physical or mental condition, as attested to by a physician's certificate, renders instruction inexpedient or impractical. (*Sec. 2702 and 2705 DCA*)

All parents, guardians or any other person having control of a blind child between the ages of seven and 18 shall have the child receive instruction and training adapted for blind persons for at least six months in each year until the child reaches age 18.

The child may be excused by the commission for the blind upon presentation of satisfactory evidence that the child is not in proper physical or mental condition to receive instruction and training. Any parent, guardian or other person having control of any blind child shall apply to the commission for instruction and training for the child, upon receiving a notice from the commission to that effect. The commission may recommend to the governor that the child be placed in an institution for blind persons. The governor, at his discretion, may grant or refuse the application, and "he is vested with all the powers and discretion in regard to such application and recommendation as he, by law, has in cases where application for instruction of blind children is made through the judges of the Superior Court of this state." (*Sec. 2110 DCA*)

Responsibilities: The state board of education and local boards shall maintain appropriate special classes and facilities, whenever possible, to meet the needs of all handicapped, gifted, and talented children recommended for special education and training coming from any geographical area within the state served by special facilities. (*Sec. 3103 DCA*)

POPULATION

Definitions: " 'Handicapped children' means children between the chronological ages of four and 21 who are physically handicapped or maladjusted or mentally handicapped."

" 'Educable mentally handicapped children' means children who, because of retarded intellectual development as determined by individual psychological examination, are incapable of being educated properly and efficiently through the regular classroom program but who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted."

" 'Trainable mentally handicapped children' means children who are incapable of being educated or trained properly as determined by individual psychological examination in special classes for educable mentally handicapped children in public schools and state institutions but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness in their homes or in a sheltered environment."

" 'Physically handicapped children' means children who suffer from any physical disability making it impracticable or impossible for them to benefit or participate in a regular classroom program at the public schools and whose proper education requires modification of the regular classroom program."

" 'Socially or emotionally maladjusted' means those children whose behavioral disorders are such that it is impossible for them to be educated profitably and efficiently through a regular classroom program, and who may, upon recommendation of the chief administrative officer of a school district, or of a state institution (if committed to its care or under direction) be assigned to such classes in accordance with policies set forth by the state department of public instruction for their establishment and operation."

" 'Learning disability' means children who exhibit disorder in one or more of the basic psychological or physiological processes involved in understanding and in using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include but are not limited to, conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and/or developmental aphasia. They do not include learning problems which are due primarily to visual, hearing or orthopedic handicaps, to emotional disturbance if these are provided for elsewhere, or to mental retardation or to environmental disadvantage."

" 'Gifted children' means children between the chronological ages of four and 21 who are endowed by nature with high intellectual capacity. 'Gifted children' are those children who have native capacity for high potential intellectual attainment and scholastic achievement."

" 'Talented children' means children between the chronological ages of four and 21 who have demonstrated superior talents, aptitudes, or abilities. 'Talented children' are those children who have demonstrated outstanding leadership qualities and abilities or whose performance is consistently remarkable in the mechanics, manipulative skills, the art of expression of ideas, orally or written, music, art, human relations or any other worthwhile line of human achievement."

Age of Eligibility: Children may receive special education services between the ages of four and 21. (*Sec. 3101 DCA*)

IDENTIFICATION AND PLACEMENT

Census: All superintendents, principals, teachers, and visiting teachers in every school district, in accordance with state board rules, will report to the school board by May 15 of each year and throughout the year as new cases are discovered, all children within the district between the ages of four and 21 who because of apparent exceptional, physical, or mental conditions are not being properly educated and trained.

Special Education Evaluation: The state board may direct, with the aid of cooperating agencies, the expamination of all children and discover if the child is a fit subject for special instruction and training. (*Sec. 3105 DCA*)

The rules and regulations of the state board will provide for the establishment of evaluation and placement committees in the school districts to evaluate candidates for enrollment into classes for children with learning disabilities and to recommend appropriate placements to parents or legal guardians of children and to the superintendent of the school district. Each placement committee must contain a psychologist and psychiatrist licensed to practice in the state. No more than two percent of the enrollment of any school district may be enrolled in the category described as "learning disabilities." No state expenditures for classes in this category will be authorized unless qualifications of the teacher and the instructional program have been approved by the state board. If the evaluation and placement committee certifies the child cannot be adequately served in any of the units described for handicapped children including those with learning disabilities or if a unit for learning disabilities is unavailable in the district of residence or a district within reasonable transportation distance of the home of the child, the committee may recommend to the parents or legal guardian of the child and to the superintendent of the district of residence that the child attend a specialized public or private school in Delaware or in another state and that the district of residence include in their budget a separate amount drawn from state funds used to cover the cost of tuition, transportation, and housing for specialized assignment. The amount may not exceed the average expenditure per pupil from state funds for the preceding year. This amount will not be counted against the district's allocation for other unit purposes, nor shall the district count the student in its certified count by which units are determined for the school district. When the timing of a pupil evaluation and placement does not coincide with the timing of the budget presentation, the amount shall be provided from the educational contingency fund. (*Sec. 1703 DCA*)

The state board of education is responsible for prescribing rules and regulations for the physical examination of children and for the mental examination of children who have made no advancement in their studies for three successive years of regular attendance. (*Sec. 122 DCA*)

ADMINISTRATIVE RESPONSIBILITY

The state board is responsible for adopting rules and regulations for the education, training, and transportation of handicapped and talented children. (*Sec. 3102 DCA*)

The state board of education is responsible for the care and education of all deaf persons in the state. These responsibilities are in addition to any other duties which it may have in regard to deaf persons. (*Sec. 3106 DCA*)

The state board of education is also the trustee for any deaf persons maintained and instructed in any institutions in the state. It pays monies to the institutions for board, maintenance, and instruction of such deaf persons. The amounts paid will not be greater than the sum paid for any other persons in the same institution. (*Sec. 3107 DCA*)

The commission for the blind will appoint a representative to visit institutions outside of the state where blind children of the state are maintained and instructed to ascertain whether they are receiving proper treatment and instruction and are making any improvement or advancement that will justify the state incurring the necessary expenses for their placement in such institutions. (*Sec. 2111 DCA*)

PLANNING

An advisory committee appointed by the governor on the needs of exceptional children will serve in an advisory capacity to the state board of education and the board of trustees of the state hospital at Farnhurst. (*Sec. 3108 DCA*)

FINANCE

Units will be granted for the education of exceptional children under the following formulas:

1. classes for the educable mentally handicapped—one unit for 15 children;
2. classes for the trainable mentally handicapped—one unit for six children;
3. classes for the socially and emotionally maladjusted—one unit for 10 children;
4. classes for the partially sighted—one unit for 10 children;
5. classes for the orthopedically handicapped—one unit for 10 children;
6. classes for the partially deaf or hard of hearing—one unit for eight children;
7. classes for the blind established and approved by the state board and the commission for the blind—one unit for eight children, and
8. classes for those children designated as learning disabled—one unit for eight children.

A major fraction will be considered a unit and will consist of any fraction greater than one half. Exceptional children will not be counted in any other calculation of units. (*Sec. 1703 DCA*)

The growth of special education programs for children with learning disabilities and those defined as socially and emotionally maladjusted are limited. The number of approved units is restricted in the following manner: the growth in the total number of state units certified for learning disabilities for each of the fiscal years ending June 30, 1972, and June 30, 1973, shall be limited to 10 percent of the total state units certified as of September 30 of the preceding year. The growth in the total number of state units certified for socially or emotionally maladjusted for each of the fiscal years ending June 30, 1972 and 1973 shall be limited to 10 percent of the total state units for these children certified as of September 30 of the preceding year. No further growth in the total number of units shall be allowed for subsequent fiscal years without the approval of the General Assembly. All new units shall be allocated to school districts by the superintendent of public instruction no later than March 1 of each year. (*Sec. 1703 DCA*)

The state board of education shall use or transfer for use to local school districts and state institutions any funds appropriated to it for any cause for the education or training of handicapped, gifted, or talented children. (*Sec. 3104 DCA*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If a handicapped child attends a special education class operated by a district other than his district of residence or by the state department, the child's district of residence will pay a tuition charge to the other school district or the state department of public instruction. The funds for the tuition will be raised by a local tax levied for this special purpose.

The tuition charge will be determined by adding the current year's estimated expenses for salary supplements for the staff of the special classes based on a schedule not higher than the schedule in force in other schools in the district in which the special classes are located; and other expenses due to the operation of the special classes for which local funds are to be used in the current school year. The total will then be divided by the number of children in special classes as of September 30 of the current school year. (*Sec. 604 DCA*)

SERVICES

All districts having classes for the trainable mentally retarded or for the orthopedically handicapped, or for the partially deaf or hard of hearing, may employ necessary attendants or aides, subject to the qualifications of the certifying board. (*Sec. 1324 DCA*)

The state board may contract with any local school district to reimburse a district for all or part of the cost of educating handicapped children who are institutionalized. (*Sec. 3109 DCA*)

PRIVATE

Programs for the blind (See Right to an Education) and for learning disabled children (See Identification and Placement) may be provided in private facilities.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

FLORIDA

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for a uniform system of public free schools and shall provide for the liberal maintenance of the same." (*Art. XII, Sec. 1, Fla. Const.*)

Compulsory Attendance Law: All children between ages seven and 16 are required to attend school during the entire term. Exceptional children, who have reached the age of three on or before January 1 of the school year, are eligible for admission to public school programs and related services under rules and regulations of the school board. (*Sec. 232.01 Fla. Stats.*)

Children, who are within the compulsory attendance limits and who have certificates of exemption issued by a county superintendent, are exempt from attending school for the school year specified in the exemption. Children whose physical, mental, or emotional condition prevents their successful participation in regular education or programs for exceptional children may be exempted. Before issuing a certificate of exemption, the county superintendent requires a statement from the county health officer, if he is a licensed practicing physician in other counties, or from a qualified psychological examiner designated by the county. This statement must certify that the child is physically or mentally incapacitated for school attendance. If appropriate programs are unavailable within the school system, arrangements shall be made with adjoining counties, other appropriate agencies, residential schools, or approved non-public schools to provide such programs and services. All children exempted from education will be immediately reported to the state superintendent. (*Sec. 232.06 Fla. Stats.*)

Responsibilities: All school boards shall provide an appropriate program of special instruction, facilities, and related services for exceptional children for 13 consecutive years. This program shall be implemented in annual increments so that by 1973 all exceptional children will be served. (*Sec. 228.13 Fla. Stats.*)

POPULATION

Definitions: "The term 'exceptional children' as used in the Florida school code means any child or youth who has been certified by a specialist qualified under regulations of the state board of education to examine exceptional children, as one who is unsuited for enrollment in a regular class of the public schools or is unable to be adequately educated in the public schools without the provision of special classes, instruction, facilities or related services, or a combination thereof. The term 'exceptional children' may also include the gifted."

"The term 'exceptional children' includes the following: the educable mentally retarded, the trainable mentally retarded, the speech impaired, the deaf and hard of hearing, the blind and partially sighted, the crippled or other health impaired, the gifted, the emotionally disturbed and the socially maladjusted and those with specific learning disabilities and may include the gifted." (*Sec. 228.041 Fla. Stats.*)

Age of Eligibility: Children may begin receiving special education services at age three. There is no maximum age.

IDENTIFICATION AND PLACEMENT

Census: The crippled children's commission, the state board of health, and the state board of welfare will direct their field workers to review case records on or before March 31 of each year and to report to each county superintendent the name and other pertinent information of all of the county's exceptional children, whose conditions require special education and services, in their opinion. (*Sec. 232.13 Fla. Stats.*)

In the second week of each school year, the principals of the county schools will send to the county superintendent a list of all deaf and all blind children in the county. This list is forwarded to the state superintendent, who will then present it to the president of the Florida School for the Deaf and the Blind.

Listings of all children with serious physical disabilities preventing their attendance in public school or which greatly impede their progress in school will be prepared at the same time by school principals and sent to the county superintendents and state superintendents. In turn, they transmit the lists to the crippled children's commission or any other agency providing services for handicapped children.

ADMINISTRATIVE RESPONSIBILITY

The state board of education is authorized to adopt the rules and regulations necessary to secure adequate school services for the handicapped individuals. (*Sec. 22-9.1 Fla. Stats.*)

The state board of education may assist local school divisions in employing and paying teachers to conduct special classes for the handicapped, including the orthopedically handicapped, speech defective, homebound, those children and adults confined in the hospitals, and children who require special education, whether by reason of mental retardation, cerebral palsy, physical deficiency or otherwise, but not including visually impaired children who are provided for in Section 22-9. (*Sec. 22-9.2 Fla. Stats.*)

The state board for the mentally retarded is under the supervision of the board of commissioners of state institutions. (*Sec. 393.1 Fla. Stats.*)

The state department of education is responsible for programs in the state school for the deaf and blind.

The division of mental health in the department of health and rehabilitation services administers the institutional programs for the mentally retarded and emotionally disturbed.

PLANNING

Local school boards are responsible for adopting and providing plans for the establishment, organization, and operation of the schools of the districts. This includes an appropriate program of special facilities and services, according to the rules and regulations of the state board of education such as: (1) necessary diagnostic and evaluation services for exceptional children; (2) special instructions, classes, and services, within districts' school systems, and (3) contractual arrangements by district boards with approved private or non-public schools or community facilities.

The superintendent is responsible for recommending the establishment, organization and operation of schools, classes, and services needed for providing adequate educational opportunities for exceptional children in the district, including the recommending of plans for the provision of special education classes, instruction, facilities, equipment, and related services. (*Sec. 230.23 and 230.33 Fla. Stats.*)

FINANCE

No matriculation or tuition fees may be charged to pupils whose parents are residents of the state. Public education in grades one through 12, including exceptional child education, is made available at public expense for all school age children. The funds for the support and maintenance of these schools is derived from state, district, federal, or other lawful sources, or combination of sources. (*Sec. 228.16 Fla. Stats.*)

The number of instructional units for all districts will be determined by the average daily attendance of the public schools of the district from the preceding year and from reports of instructional personnel for the ensuing year in the following manner: The attendance of students may not be counted for more than once in determining instructional units.

Instructional units for exceptional children will be computed as follows:

"The term 'exceptional children' as used in the Florida school code means any child or youth who has been certified by specialists qualified under regulations of the state board of education to examine exceptional children as one who is unsuited for enrollment in a regular class of the public schools or who is unable to be adequately educated in the public schools without the provision of special classes, instruction, facilities, or related services, or a combination thereof, or may include the gifted. The term 'exceptional children' includes the following:

"(a) The educable mentally retarded, the trainable mentally retarded, the speech impaired, the deaf and hard of hearing, the blind and partially sighted, the crippled and other health impaired, the gifted, the emotionally disturbed and socially maladjusted, and those with specific learning disabilities and may include the gifted. Instruction units for exceptional children shall be computed when the following requirements for participation have been met:

1. Each county board that participates in this program shall submit annually to the state superintendent, a plan outlining its proposed procedure for the provision of special educational services for exceptional children and no funds authorized herein may be allotted to any district until such plan has been approved in writing by the state superintendent in accordance with regulations of the state board.

2. No child shall by given special services under the terms of this chapter as an exceptional child until he is properly classified as an exceptional child in keeping with the definition given above. A copy of the

report certifying to the child's condition shall be kept in file in the office of the principal of the school where the child is enrolled.

3. In providing for the education of exceptional children, the county superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional children wherever this is possible. No child shall be segregated or taught apart from normal children until careful study of a child's case is made and evidence is obtained which indicates that segregation would be to the child's benefit or is necessary because of difficulties involved in teaching the child in regular class.

4. The principal of the school in which the child is taught shall keep a written record of the case history of each exceptional child showing the reason for the child's withdrawal from the regular class in the public school and his enrollment and/or withdrawal from a special class for exceptional children and this record shall be available for inspection by school officials at any time.

"(b) For each group of ten or more exceptional children to be taught by a properly qualified full-time teacher as a special class or taught individually as homebound or hospitalized children unable to attend school for the major portion of the year, one instruction unit shall be allowed. The minimum number of pupils required for such unit may be reduced to not less than five as authorized by the regulations of the board, for special situations where the instruction of a larger number would not be feasible or practical. Up to one-fifth of a unit may be authorized for each exceptional child who resides in communities where fewer than five exceptional children are in need fo special instruction as determined by the county board in accordance with provisions of law. For each properly qualified member of the instructional staff devoting full-time to the instruction or improvement of exceptional children from regular classes as prescribed by regulations of the state board, one instruction unit shall be allowed.

"(c) For each group of ten or more exceptional children between 3 and 5 years of age for whom professional determination has been made that such programs are required to prepare the child for entrance into special classes or schools as prescribed by regulations of the state board and for the instruction of which a full-time qualified teacher is to be employed, one instruction unit shall be allowed.

"(d) If a pupil is unable to attend school because he is homebound or hospitalized, instructional services may be provided by a duly qualified teacher or teachers, and one instructional unit shall be allowed for each nine hundred instruction hours and a proportionate part of one unit for less than nine hundred instruction hours." (*Sec. 236.04 Fla. Stats.*)

The two-mile distance limitation does not apply to the transportation of handicapped pupils. When authorized by regulations of the state board, in lieu of an average daily attendance apportionment, $1,250 shall be allowed for each bus used exclusively for transporting 10 or more pupils classified as exceptional children to a public school. A proportionate amount will be allowed for a vehicle used exclusively for transporting a smaller number of exceptional children in average daily attendance as prescribed by regulations of the state board. (*Sec. 236.05 Fla. Stats.*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Florida's schools operate on a county system, and two or more counties may contract to provide special services.

SERVICES

"The term 'special education services' means such related services in addition to instruction of the exceptional child as transportation, diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, braillists, typists and readers for the blind, specified materials and equipment, and other such services as approved by regulations of the board of education." (*Sec. 228.041 Fla. Stats.*)

No teacher may teach exceptional children unless he has been properly certified under the regulations of the state board. The state board is directed to develop the plans for the proper education of such teachers and to prescribe the standards and regulations necessary for certifying such teachers and supervisors. (*Sec. 231.81 Fla. Stats.*)

The department of education may purchase and arrange for the distribution among district school systems of previously adopted textbooks prepared in various media for the use of partially sighted children enrolled in the public schools. (*Sec. 233.4 Fla. Stats.*)

The division of elementary and secondary education is authorized to establish a coordinating unit and instructional materials center for visually handicapped children and youth. The center will provide: staff and resources to coordinate, catalogue, standardize, produce, procure, store, and distribute braille, large print, tangible apparatus, and other specialized educational materials needed by blind and partially sighted students. The major purpose of the unit is to improve instructional program for visually handicapped students. The division may operate the unit directly or contract for its operation by a local education agency. (*Senate Bill 692, 1972*)

PRIVATE

See Planning.

PERSONNEL

Teachers who seek special training in exceptional child education in order to meet professional requirements may receive training grants from the state department of education. These grants are limited to teachers under contract in an exceptional child program in the state, the Sunland Training Centers, the child training centers, or Florida schools for the deaf and the blind. Each grant covers the cost of tuition, housing, and food and may be a maximum of $200 for residential enrollment in specific courses approved by the department of certification in exceptional child education.

Courses are offered at institutions of higher learning in the state and through the Florida Institute for Continuing University Studies. If the courses are unavilable in the state in the subject area required for certification, the recipient may receive a grant for attending an out-of-state institution of higher learning approved by the department of education in order to meet the professional requirements of the state. (*Sec. 239.371 Fla. Stats.*)

FACILITIES

A five year plan approved by the legislature provides a $3.5 million per year appropriation for special education facilities. This is the final year for the plan. (*Senate Bill 86 (x), 1967*)

GEORGIA

RIGHT TO AN EDUCATION

Constitution: "There shall be a thorough system of common schools for the education of children, as nearly uniform as practicable, the expense of which shall be provided for by taxation, or otherwise . . ." (*Art. VIII, Sec. 1, Georgia Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements. Children determined to be physically or mentally incapable of doing school work or who have been excused from attendance by county or independent school boards in accordance with state board regulations are exempt from the requirements. Regulations must consider factors such as sickness, seasonal labor, and other emergencies. County and independent boards of education are the only agencies which can excuse children from the compulsory attendance requirement. (*Sec. 32-2106 Ga. School Laws*)

Responsibilities: "School boards of any school systems that maintain a recognized public school shall, subject to any limitations hereinafter specified, establish and maintain such special facilities and employ such professional workers as may be needed for one or more types of exceptional children defined by the state board of education who are residents of their school district and such children, residents of other school districts, as authorized by this act." (*Ch. 32-35, Ga. School Laws*)

POPULATION

Definitions: " 'Exceptional Children' are those who have emotional, physical, communicative, and intellectual deviations to the degree that there is interference with school achievements or adjustments or prevention of full academic attainment and who require modifications or alterations in their educational programs. This definition includes children who are mentally retarded, physically handicapped, speech handicapped, multiple handicapped, autistic, dyslexic, intellectually gifted, and any other areas of exceptionality which may be identified." (*Ch. 32-35, Ga. School Laws*)

Age of Eligibility: Children are eligible for special education services between the ages of three and 18.

IDENTIFICATION AND PLACEMENT

For provisions relating to census, see Planning.

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for establishing rules and regulations to govern all phases of the educational programs for exceptional children. (*Ch. 32-35 Ga. School Laws.*)

The state board of education is responsible for the supervision of the state schools for the deaf and the blind. The department of health administers programs in state institutions for the mentally retarded and the emotionally disturbed.

PLANNING

A state advisory council for exceptional children, appointed by the state superintendent with the approval of the state board, and a committee for exceptional children in each school system are established. Each local committee consists of a local superintendent, a local director of special education (who shall be chairman), and at least five additional members who represent professions related to special education services; one committee may be formed to serve the districts. (*Ch. 32-35, Ga. School Laws*)

School systems are charged with the responsibility for securing a competent survey of the educational needs of exceptional children in their jurisdictions. In addition, each system shall make an educational plan for these children. The law requires that these plans were to be presented to the state department of education within one year after the passage of a bill in March, 1968. A biennial report will be made to the state department of education to indicate the extent to which the plans have been implemented and to report any additional planning. (*Ch. 32-35, Ga. School Laws*)

FINANCE

The state board is responsible for establishing a uniform basis for allotting additional personnel and funds for special education programs. These programs are considered part of the minimum foundation program for education. The costs are shared by state and local administrative units in the same manner and on the same basis as costs in regular education programs. (*Ch. 32-620 Ga. School Laws*)

If itinerant personnel require travel they receive state reimbursement.

Transportation, approved by the local committee, is wholly reimbursed by the state when funds are appropriated. (*Ch. 32-35, Ga. School Laws*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The state board of education is responsible for implementing statewide programs in the public schools for the education of exceptional children and other educational programs not ordinarily coming within public school curricula.

Priorities, criteria, and standards for implementing and operating state wide programs will be established by the state board. Prior to state implementation of programs, local systems should initiate such programs locally.

Committees for exceptional children may plan with other districts to provide joint services. Children may be sent to other districts for special services. If children attend special classes in another district, transportation is provided. (*Ch. 32-35, Ga. School Laws*)

The state board may establish and maintain special courses, classes and/or schools for "the correction of speech by oral methods of those who are deaf, or who have defective hearing or speech, in cooperation with, or independently of, local units of administration, with the power and right to promulgate the rules, standards, and requirements for the said courses, classes, and schools, receiving state aid under this chapter. . . ." (*Sec. 33-210A Ga. Stats.*)

The state board may send children, who are deaf and blind and for whom there are no facilities within the state, to schools, institutions, or other places outside the state maintaining appropriate facilities. Room, board, tuition, transportation, and other necessary items may be provided. (*Sec. 32-441, Ga. Stats.*)

SERVICES

" 'Special education facilities' shall include, but not be limited to, special classes, special housing, special instruction, special rental facilities, braillist and typist for physically handicapped children, transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, itinerant services, resource services, additional evaluation services and centers, special administrative services, salaries of all required special personnel, and other special education services required by the child because of his exceptionality, if such services are approved by the state board of education and the child is eligible therefore under this act and the regulations of the state board of education."

"'Professional workers' means approved personnel, and shall include, but not be limited to speech and/or hearing specialists, mobility instructors, special education interns, special education administrators or supervisors giving full time to special education, and teachers of any class or program defined in this act who meet the requirements of this act." (*Ch. 32-35 Ga. School Laws*)

The state board may provide education and training services to mentally retarded children for whom public school classes are unavailable. The following methods may be utilized:

1. contracting with private organizations within or without the state,
2. making direct grants to the parents of such children to obtain the services,
3. entering into reciprocal agreements with other states or political subdivisions within other states to provide such services, or
4. providing the services directly. (*Sec. 32-812, Ga. Stats.*)

PRIVATE

If an exceptional child cannot be educated in a local school system, his parents may seek a program appropriate to his needs after receiving approval from the program for exceptional children in the state department. The school or agency, either inside of or outside of the state and which educates the exceptional child will be reimbursed for tuition fees, transportation, and books. Reimbursement cannot exceed the cost of educating an exceptional child of identical age with a similar handicap in the Georgia public schools. Included in this section are multiply handicapped children who because of the severity of their disability have a special appropriation. (*Ch. 32-35 Ga. School Laws*)

PERSONNEL

With the advice of the advisory council for exceptional children, the state superintendent of schools may grant scholarships to persons interested in working in programs for the education of exceptional children for either part-time or full-time study in programs designed to qualify them as professional workers in special education. See Services. To qualify for a scholarship, a person must have earned at least 90 quarter hours of college credit and must be a student at a recognized college or university. Part-time and summer students may be awarded grants on a pro rata basis. The amount of grants is not specified within the law.

If any part of the appropriation for scholarships is not utilized, it may be used to recruit professional workers for programs in the education of exceptional children through further training at graduate and undergraduate levels. (*Ch. 32-35, Ga. School Laws*)

"The state board of education may, at their discretion, select some educated young men who may desire to learn the mute or sign language, upon the condition that they will obligate themselves to teach in the institution as many years as may be agreed upon by the board at the time they shall enter the institution." (*Sec. 35-809, Ga. Stats.*)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area. See Services.

HAWAII

RIGHT TO AN EDUCATION

Constitution: "The state shall provide for the establishment, support, and control of a statewide system of public schools, free from sectarian control, a state university, public libraries, and such other educational institutions as may be deemed desirable, including physical facilities therefore. There shall be no segregation in public educational institutions because of race, religion, or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private instructional institution." (*Art. II Sec. 1, Haw. Const.*)

Compulsory Attendance Law: Unless excluded from school or exempted from attendance, all children between ages six and 18 must attend a public or private school for and during each school year. Any parent, guardian, or person having responsibility for or care of a child whose attendance in school is obligated, shall send the child to some such school. Attendance will not be compulsory if a child is physically and/or mentally unable to attend school (deafness and blindness excepted). A certificate of a duly licensed physician is sufficient evidence of this fact. (*HRS 298-9*)

"Every parent or guardian having control over any partially or totally blind or deaf person, from six to 18 years of age who, by reason of total or partial blindness or deafness, is unable to obtain an education in the public or private schools, shall send the child to the state school for deaf and blind for a period corresponding to the regular school year. The superintendent of education or a circuit court judge can excuse such attendance if, in his opinion, the facts warrant such action. This does not apply when skilled private instruction is given to such persons for the same length of time each year. (*HRS 298-10*)

"If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal with the approval of the district superintendent. The department shall seek the active participation of other public and private agencies in providing help to such children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days of such action. . . ." (*HRS 298-11*)

Policy: "It is hereby declared to be a vital concern to the state that all exceptional children residing in the state be provided with instruction, special facilities, and special services for education, therapy, and training to enable them to live normal competitive lives." (*HRS 301-22*)

Responsibilities: If one or more exceptional children are found in any one district superintendent's area, the superintendent of education shall provide instruction, special facilities, and special services, according to the specifications of this law in a manner most expedient and economical. (*HRS 301-24*)

POPULATION

Definitions: " 'Exceptional children' includes: (1) Children under 20 years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities; (2) Children under 20 years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and (3) Children under 20 years of age who are certified by a licensed physician eligible to membership in the state medical society to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods." (*HRS 301-21*)

Age of Eligibility: Exceptional children may receive special education services until age 20. There is no statutory minimum age.

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: The department of education is responsible for establishing eligibility requirements for enrollment in special classes. Children having emotional or intellectual handicaps must be evaluated by a licensed physician eligible for membership in the state medical society. (*HRS 301-21*)

ADMINISTRATIVE RESPONSIBILITY

Education is organized as a statewide public school system with actual program administration under seven district superintendents. At the state level, a department of education is responsible for establishing and administering instruction, special facilities, and special services for the education, therapy, and upgrading of exceptional children and to provide corrective therapy, and academic, occupational, and related training. The department shall also cooperate with other agencies of the state providing any type of services or aid to exceptional children and with the U.S. government, through any of its agencies for developing, extending, and improving instruction, special facilities, or special services. (*HRS 301-22*)

The department is also charged with the responsibility for making any studies,surveys, evaluations, rules, and regulations necessary to carry out the special education program. (*HRS 301-26*)

Within the department of education, the division of special education is established to promote, direct, supervise, and control the special education program. (*HRS 301-23*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

A legislative mandate provides $12,000 per class for special education.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

See Administrative Responsibility.

SERVICES

" 'Special facilities' includes buildings, equipment and materials, transportation, boarding homes, and personnel qualified to work with the exceptional children."

" 'Special services' means physiotherapy or any form of muscle training, speech training, occupational therapy, vocational training, psychological evaluation, or any of them." (*HRS 301-21*)

The special education program includes the provision of boarding facilities, when necessary; special classes in homes or schools, and any other facilities required to render appropriate services to exceptional children. Already existing facilities, buildings, and equipment, belonging to or operated by the state, may be made available for these purposes, if such use does not conflict with the primary purpose of these facilities. (*HRS 301-22*)

The department of health, in cooperation with the department of education, may provide one physiotherapist and one occupational therapist for exceptional children in the primary and elementary grades in the county of Honolulu needing such services. The department may accept funds from private sources and divert any appropriated funds to the board whenever, in the opinion of the board, these funds can be used to better advantage by being so diverted. (*HRS 301-27*)

The Waimano Home, under the supervision of the department of health, is located in Honolulu. Those persons who, because of mental retardation, are incapable of independent self-support, and self-management in the community may be admitted to the institution. (*HRS 333-22*)

The department may provide transportation to exceptional children in grades kindergarten through 12. The department, when formulating policy and procedure for the transportation program, must consider such factors as the child's normal school attendance area, distance from school, frequency and availability of public transportation as well as the grade level, physical handicap or special learning disability of the child. Conditions and circumstances unique to a particular area may also be considered. (*HRS 296-45*)

PRIVATE

Statutes contain no specific provision for the handicapped in this area.

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Since Hawaii's education system is completely state operated special education facilities are financed through state appropriations. No additional legal provisions are provided.

IDAHO

RIGHT TO AN EDUCATION

Constitution: "The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools." (*Art. IX, Sec. 1, Idaho Const.*)

"All children with sufficient mental and physical ability shall attend the public schools throughout the period between the ages of six and 18 for a time equivalent to three years, unless educated by other means." (*Art. IX, Sec. 9, Idaho Const.*)

Compulsory Attendance Law: A child is exempted from the compulsory attendance law "if a reputable physician within the district shall notify in writing that the child's bodily or mental condition does not permit his attendance at school." (*Sec. 33-202 Idaho Code*)

The parent or guardian of any child between the ages of seven and 16 shall have the child instructed in the subjects taught in the public schools of the state of Idaho. Unless the child is comparably instructed, the parent or guardian must have the child attend a public, private, or parochial school during the school year. (*Sec. 33-202 Idaho Code*)

State institutions for the deaf and blind will admit "all children between the ages of six and 21 who are too deaf or too blind to be educated in the public schools. . . ."

Children under age six may be admitted when, in the opinion of the superintendent and approved by the board of education, they are proper subjects to receive training and education at the school and when the facilities are adequate for their care, training, and education. (*Sec. 33-3407 Idaho Code*)

If the board of trustees of a school district receives a written statement from a licensed physician or psychiatrist that a child's physical, mental, or emotional condition does not permit attendance at a school and a petition is filed by the parent or guardian requesting the child's exemption from the compulsory attendance requirements, the board may grant, at its discretion, the exemption during the existence of the condition. The board may require, from time to time, an additional examination of the child. (*Sec. 33-204 Idaho Code*)

The board may suspend or expel any pupil who is habitually truant, incorrigible, or whose conduct, in the judgment of the board, is continuously disruptive of school discipline, instruction, or effectiveness of the school. Any suspended or expelled pupil may be readmitted to the school on conditions set by the board. Readmission does not prohibit future suspensions or expulsions.

Before expelling a student, the board of trustees must notify the parent or guardian of a time and place to appear to show cause why the student should not be expelled. Any pupil, who is expelled and who is within the age of compulsory attendance, comes under the purview of the youth rehabilitation law, and an authorized board representative must file a petition with the probate court of the county of the pupil's residence in any form the court may require. (*Sec. 33-205 Idaho Code*)

The legislature of the state of Idaho resolved that the following amendment be submitted to the elections of the state at the next general election: "Shall Section 9 Article IX of the Constitution of the State of Idaho relating to compulsory attendance in schools be amended to provide that the legislature may require that every child shall attend the public school of the state unless educated by other means as provided by law?" If the electives approve, section 9 will then read: "The legislature may require by law that every child shall attend the public schools of the state, throughout the period between the ages of 6 and 18 years, unless educated by other means as provided by law." (*Senate Joint Resolution #124, Idaho 1972*)

Policy: "Each public school district is responsible for the education and training of exceptional pupils resident therein." (*Sec. 33-200 Idaho Code*)

Responsibilities: Each public school district is responsible for and shall provide for the education and training of their resident exceptional pupils. Every public school district in this state may provide instruction and training for persons to the age of 21 who are exceptional as defined by the state board. (*Sec. 33-2001 Idaho*)

Law Digest: Education of Handicapped Children

POPULATION

Definition: " 'Exceptional children' means those children whose handicaps or capabilities are so great as to require special education and special services in order to develop to their fullest capacity. This definition includes, but does not limit itself to, those children who are physically handicapped, mentally retarded, emotionally disturbed, chronically ill, who have perceptual, visual or auditory handicaps or speech impairment as well as those children who are so academically talented, that they need special educational programs to achieve to their fullest potential." (*Sec. 33-2002 Idaho Code*)

If the superintendents of the schools for the deaf and the blind ascertain a pupil who has ceased to make progress or who is no longer benefitting by attending the school, the child may be released from the school with the approval of the board of education. (*Sec. 33-3407 Idaho Code*)

Age of Eligibility: Exceptional children are eligible for services from birth through age 21.

IDENTIFICATION AND PLACEMENT

Census: By February 1 annually, the clerk of each school district must report the number of deaf and blind pupils attending the district's schools as well as other children who are not pupils in the schools but of whom they have knowledge. The report is made to the superintendents of the state schools for the deaf and the blind. (*Sec. 33-3408 Idaho Code*)

Licensed physicians are required to provide to the state department of health on appropriate forms the names of children suspected of having severe auditory and/or visual impairment. In addition, if any physician or optometrist, audiologist, or any certified person giving an examination receive as a patient any child suspected of having severe auditory or visual impairment who he believes has not been reported, it is his duty and responsibility to include this information on the report. Parents must be notified by the person reporting that their child has been reported. (*Sec. 39-427 Idaho Code*)

Special Education Evaluation: Prior to enrollment or placement in special education classes and the expenditure of funds for exceptional children, the students must be comprehensively evaluated in accordance with the regulations of the state department of education. (*Sec. 33-2003 Idaho Code*)

ADMINISTRATIVE RESPONSIBILITY

The state board shall determine eligibility criteria for exceptional children, qualifications of special teachers and special personnel, programs of instruction, and minimum standards for classroom and equipment to be used in administering this act. (*Sec. 33-2001 Idaho Code*)

The state board is also responsible for:

1. establishing an administrative unit in the state department of education to administer the special education programs;
2. establishing programs, setting standards, and employing the necessary supervisory and clerical personnel to assist and direct school districts in educating and training exceptional children;
3. establishing a research program to evaluate existing programs, assessing the number and types of handicapped children, and making recommendations for serving them, and
4. formulating and revising regulations and standards for determining eligibility of children for special services and training. (*Sec. 33-2003 Idaho Code*)

The state hospitals for the mentally ill and mentally retarded are under the jurisdiction of the state hospital's board. (*Sec. 66-116 Idaho Code*)

The Idaho schools for the deaf and the blind are under the general supervision of the state board of education. (*Sec. 33-103 Idaho Code*)

PLANNING

By July 10 each year, boards of trustees of all school districts must submit projected plans for providing special education in the upcoming year to the state board. When requested by the state board, districts shall submit projected long-range plans and a progress report of special education services provided within a specific district or jointly with other school districts. (*Sec. 33-2009 Idaho Code*)

A school district or combination of school districts may submit, to the board of education, a plan for the provision of vocational educational services for handicapped students under age 22. The plan may be approved or disapproved by the state board. If approved, the plan is entitled to all the considerations and benefits available by law to the educational programs of the school district. (*Sec. 33-124 Idaho Code*)

FINANCE

Each school district must report, before July 10 each year, to the state board the number of resident exceptional children eligible for special education and must compute the average district per pupil cost of providing special education services. This constitutes the anticipated cost of providing spedical education during the following year. (*Sec. 33-2009 Idaho Code*)

When special education services utilize full-time or part-time ancillary or itinerant personnel, the district receives from the state board of education 80 percent of the salaries for them as part of their educational foundation program. When exceptional children receive services in approved special education classes, the district qualifies for the handicapped child factor in the education foundation program. (*Sec. 33-2005 Idaho Code*)

The handicapped child factor is calculated for the state and for each individual school district to provide for the education of handicapped pupils. The factor is obtained by multiplying the average daily attendance of handicapped children by 300 percent for either the state or the school district, as the case may be. (*Sec. 33-1002 Idaho Code*)

If a district contracts with another school district or any private or public rehabilitation center, hospital, or corporation, the sending district pays a tuition rate computed in the following manner:

- To another school district: the annual tuition rate of the receiving district as shown in the last tuition certificate;
- To the rehabilitation center, hospital, or corporation: the tuition rate of the sending district as computed above and the district's reimbursement under the handicapped child factor of the education foundation program. One district is designated as the educating district when public school districts contract for the education of exceptional children residing within several districts. When a student attends a rehabilitation center, hospital, or corporation, the home district of the child considers the child as a resident in average daily attendance. (*Sec. 33-2004 Idaho Code*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The trustees of the school district may contract to educate an exceptional child by another school district or by any public or private rehabilitation center, hospital, or corporation approved by the state board. When such students are transferred from the school district to the institution, corporation, or the district, the transferring district shall agree to pay to the institution, corporation, or district amounts as computed as follows for each student:

1. To another school district, the annual tuition rate of the receiving district as shown by the certificate last issued to the district under the provisions of Idaho code section 33-1405. (*Sec. 33-2004*)

SERVICES

" 'Special services' for exceptional children may include those services provided by special education teachers as well as ancillary and itinerant personnel such as visiting teachers, speech therapists and audiologists, school social workers, and psychologists. Supervisors of special education programs and directors of special education programs whose major responsibilities are in the supervision and administration of special education programs are considered as providing services under this act." (*Sec. 33-2002A Idaho Code*)

The one and one-half mile limitation for the provision of transportation may be waived by a board of trustees of a school district if the age or the health of the pupil warrant it. (*Sec. 33-100a Idaho Code*)

If a child living in a non-transportation zone is eligible for transportation for another reason, the board of trustees of a local district may then reimburse the parent or guardian of the child for the costs incurred for the child's board and lodging, as authorized by the state board of education. (*Sec. 33-1503 Idaho Code*)

Transportation may be provided to and from the state school for the deaf and the blind. (*Sec. 33-3405 Idaho Code*)

The Idaho Commission for the Blind will contract with the U.S. Library of Congress, Division for the Blind and Physically Handicapped, to distribute talking book machines to people entitled to such services. (*Sec. 67-0407 Idaho Code*)

All districts in the state in which a state-licensed or state-sponsored system of care for expectant or delivered mothers is located shall provide instruction in accredited courses by qualified personnel for expectant and delivered mothers under 21 years of age enrolled for care by such systems. Upon satisfactory completion of required public school courses or correspondence courses from an Idaho state institution of higher learning, all districts shall issue credits or a diploma evidencing this achievement. (*Sec. 33-2006 Idaho Code*)

PRIVATE

School districts may contract with any private rehabilitation center, hospital, or corporation approved by the state board of education. See Finance. (*Sec. 33-2004 Idaho Code*)

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

ILLINOIS

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common school education. . . ." *(Art. VIII, Sec. 1, Ill. Const.)*

Compulsory Attendance Law: Any person having control of any child between the ages of seven and 16 shall send the child to some public school in the child's district of residence during the entire time the regular school term is in session.

Exemptions from the compulsory school attendance law may include "any child who is physically or mentally unable to attend school, such disability being certified to the county or district truant officer by a competent physician; or who is excused for a temporary absence by the principal or teacher of the school which the child attends." *(Sec. 26-1, Ill. Stats.)*

Responsibilities: School boards of any school district shall establish and maintain the necessary special educational facilities for all handicapped children who are residents of their school district and any other children who are residents of other districts, as authorized under Illinois law. *(Sec. 14-4.01, Ill. Stats.)*

POPULATION

Definitions: " 'Physically handicapped children' means children, other than those with a speech defect, between the ages of three and 21 who suffer from any physical disability making it impracticable or impossible for them to benefit from or to participate in the normal classroom program of the public schools, in the school districts in which they reside and whose intellectual development is such that they are capable of being educated through a modified classroom program." *(Sec. 14-1.02, Ill. Stats.)*

" 'Children with specific learning disabilities' means children between the ages of three and twenty-one years who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, emotional disturbance or environmental disadvantage." *(Sec. 14-1.02a, Ill. Stats.)*

" 'Maladjusted children' means children between the ages of 3 and 21 years, who, because of social or emotional problems, are unable to make constructive use of their school experience and require the provision of special services designed to promote their educational growth and development.

"No emotionally maladjusted child may be excluded by school authorities from a special education program on the grounds of his being so grossly handicapped as to make his education nonfeasible until after a joint consultation with the parents and the department of mental health." *(Sec. 14-1.03, Ill. Stats.)*

" 'Educable mentally handicapped children' means children between the ages of 3 and 21 years who, because of retarded intellectual development as determined by individual psychological evaluation, are incapable of being educated profitably and efficiently through ordinary classroom instruction, but who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted." *(Sec. 14-1.04, Ill. Stats.)*

" 'Trainable mentally handicapped children' means children between the ages of 3 and 21 years who, because of retarded intellectual development as determined by individual psychological evaluation, are incapable of being educated properly and efficiently through ordinary classroom instruction or special educational facilities for educable mentally handicapped children, but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness in their homes or in a sheltered environment. Any such child shall be regarded as eligible for special educational facilities only as long as benefit to him from the program can be determined to exist." *(Sec. 14-1.05, Ill. Stats.)*

" 'Speech defective children' means children between the ages of 3 and 21 years whose diagnosis by a certified teacher meeting the requirements of the superintendent of public instruction as a qualified speech correctionist, indicates that specialized instruction would improve or correct the defects." *(Sec. 14-1.06, Ill. Stats.)*

" 'Multiply handicapped children' means children between three and 21 years who may be placed within two or more classifications of this article or at least two different programs provided under Section 14-1.02 of this article." *(Sec. 14-1.07, Ill. Stats.)*

Age of Eligibility: All handicapped children are eligible for programs from age three to 21. *(Sec. 14-1.07, Ill. Stats.)*

IDENTIFICATION AND PLACEMENT

Census: A census must be taken by the school districts before April 1 every fourth year of all handicapped children in or out of school. Findings are reported to the superintendent of public instruction by June 1 of each year the census is taken.

After the findings of the census are reviewed, the superintendent may call together two or more districts in which handicapped children reside who are not receiving the special education services they require for the purpose of recommending to a district to take the responsibility for the establishment and administration of a special education program. Prior to the determining whether districts should jointly provide the services, geographic and other factors are to be considered. *(Sec. 3-15.11, Ill. Stats.)*

An annual report from the department of health is required which contains a census of all the children receiving special education services within the state mental health facilities during the year and also per capita expenditures for special education. *(Sec. 2-330, Ill. Stats.)*

Screening: Physical examinations prescribed by the department of public health will be required of all pupils in the public, private, and parochial elementary and secondary schools immediately prior to, or to permit entrance into, kindergarten or the first grade and upon entrance into the fifth and ninth grades; or irrespective of grade immediately prior to or upon entrance into any public, private or parochial school if that pupil has previously not been examined. Additional health examinations of pupils may be required if deemed necesssary by school authorities. *(Sec. 27-8, Ill. Stats.)*

Special Education Evaluation: An individual psychological evaluation must be used to determine placement for the educable and trainable mentally retarded. *(Sec. 14-1.04 and 14-1.05, Ill. Stats.)*

Speech defects must be diagnosed by a certified teacher who meets the requirements of the superintendents of public instruction for a qualified speech correctionist. *(Sec. 14-1.06, Ill. Stats.)*

The superintendent, with the advice of the advisory council, prescribes the standards for the eligibility and admission of pupils. No child may be eligible for services without a complete case study fully reviewed by professional personnel in a staff conference. Placement in special education programs may only be made upon the recommendation of qualified specialists. The superintendent, when establishing rules and regulations, must include within these rules a definition of case study, staff conference, and qualified specialists, appropriate to each category of handicapped children. Educable and trainable mentally handicapped children, in addition to a psychological evaluation, must be recommended by a school psychologist for such services. *(Sec. 14-8.01, Ill. Stats.)*

No child coming from a home in which a language other than English is the principal language may be assigned to any class or program of special education until he has been given in the principal language of his home tests reasonably related to his cultural environment.

ADMINISTRATIVE RESPONSIBILITY

All school based special education facilities are under the supervision and subject to the approval of the superintendent of public instruction. With the advice of the advisory council, he prescribes the standards and makes necessary rules and regulations, including but not limited to, establishment of classes, training requirements of teachers and other personnel, eligibility and admission of pupils, curriculum, class size, housing, transportation, special instructional supplies, and the applications for reimbursement claims. *(Sec. 14-8.01, Ill. Stats.)*

School boards maintaining special education facilities will exercise similar powers and duties as prescribed by law for the establishment, maintenance, and management of other recognized educational facilites. High school districts are financially responsible for the education of handicapped children resident in their districts when such children have reached age 15. However, they may admit handicapped children into special education facilities regardless of whether they have graduated from the eighth grade after they have reached the age of 12-1/2.

The department of children and family services is responsible for administering programs in state facilities for the deaf, blind, and orthopedically handicapped.

The department of mental health operates the programs in the state facilities for the mentally retarded and emotionally disturbed.

PLANNING

The superintendent of schools in each county shall appoint a seven-member special education advisory council. The members hold office for four years. Appointees must be selected, as much as possible, on the basis of their knowledge or experience in the education of handicapped children. The county superintendent acts as executive secretary to the advisory council. The council must meet at least four times in each calendar year and is responsible for reporting to the superintendent of public instruction a comprehensive plan providing "a good common school education" for all resident handicapped children.

Advisory councils of two or more counties may cooperatively complete their plans when such an approach seems desirable due to "population sparsity, geographic factors, or because of other substantial reasons." The superintendent of public instruction is responsible for providing competent professional consultants to the advisory committees. (*Sec. 14-2.01, Ill. Stats.*)

At the state level there is a special educational advisory council on educaton of handicapped children consisting of seven members appointed by the superintendent of public instruction for seven-year terms. The directors of the department of children and family services and the department of mental health are ex-officio members of the council because of those departments' responsibility for residential special education services. The advisory council consults with the superintendent of public instruction regarding all rules and regulations, the functioning of county advisory councils and the approval and rejection of completed comprehensive plans submitted by the county special education advisory councils.

Within 60 days after receiving plans, the council must consider any regulation or plan proposed by the superintendent of public instruction or any special education advisory committee. The superintendent of public instruction shall select an employee from his office to serve as executive secretary to the council. (*Sec. 14-3.01, Ill. Stats.*)

FINANCE

Each school board must keep a detailed and separate account of all monies paid for the maintenance of special education services, reporting these expenditures by June 30th of the school year to the superintendent. An application for pre-approval of expenditures must be submitted to the superintendent of public instruction no more than 30 days after the class or service has started.

These applications are limited to the cost of construction and maintenance of special education facilities designed and utilized to house instructional programs, diagnostic services and other special education services for handicapped children. The application may not include the cost of construction and maintenance of any administrative facility separated from the special education facilities designed and used to house instructional programs, diagnostic services and other special education services for handicapped children. (*Sec. 14-12.01, Ill. Stats.*)

Reimbursement claims for special education shall be made in the following manner: On or before August 1, each district files its report, computed in accordance with the rules of the superintendent of public instruction, with the county superintendent of schools. Data used as the basis for reimbursement claims shall be for the school year ending June 30. After approval by the county superintendent, they will be submitted by August 15 to the superintendent of public instruction. After approval, the state report will be submitted by September 20 to the auditor of public accounts for preparation of the vouchers showing the amounts due the respective counties.

If the superintendent of public instruction finds that he is unable to make a final determination of the accuracy of his claims by September 20, he will direct the auditor of public accounts to place three-quarters of the claims by the 30th of September and the remainder by December 1. In this event, the amount of the final payment will be adjusted to reflect any partial disapproval of the claim by the superintendent. If the auditor pays three-quarters of the amount and the amount exceeds the amount which the district is legally entitled to receive, the superintendent will notify the district to return the money to the state treasury by December 1. If the money appropriated by the General Assembly is insufficient, it will be apportioned on the basis of the approved claims. If a school board fails to prepare and certify the report of claims by August 1 of any year and fails to prepare and certify such a report within 10 days after receipt of a delinquency notice sent by the superintendent of public instruction by registered mail, the school district will forfet its right to be reimbursed by the state for special education services.

This reimbursement is limited to funds expended for construction and maintenance of facilities designed and utilized to house instructional programs, diagnostic services, other special educational services for handicapped children and reimbursement provided above. There shall be no reimbursement or construction and maintenance of any administrative facilities separated from facilities designed to house programs. (*Sec. 14-12.01, Ill. Stats.*)

Reimbursement will be made in the following manner:

1. For eligible physically handicapped children in hospitals or receiving home instruction—one-half of the teacher's salary but not more than $800 annually for each child or $4,000 per teacher, whichever is less. Children included for reimbursement under this section must receive a minimum of one hour of instruction each school day or a minimum of five hours in instruction in each school week.

2. Four-fifths of the cost of transportation for those physically handicapped, maladjusted, educable and trainable mentally handicapped, speech defective, and multiply handicapped children whom the superintendent of public instruction has determined in advance require special transportation services to take advantage of special education facilities. Transportation costs are limited to expenditures other than costs of acquiring equipment, interest, and rental of facilities and will include a reasonable allowance of depreciation to be computed in accordance with the regulations of the superintendent of public instruction;

3. For all professional workers not mentioned in the rest of this section, the annual sum of $4,000 per person for districts maintaining a fully approved program of special education;

4. An annual sum of $5,000 for one full-time qualified director of special education. Districts participating in a joint agreement special education program do not receive reimbursement for their own directors if reimbursement is made for the director of the joint agreement program. The allocation for determining reimbursement for less than a full-time basis and less than a school year will be determined by rules of the superintendent;

5. For each school psychologist, the annual sum of $5,000;

6. For each qualified teacher working in a fully approved program for preschool age deaf or hard of hearing children, the annual sum of $5,000;

7. For readers working with blind or partially seeing children, one-half of their salary but not more than $400 annually per child. Such readers are not required to be certified, but must meet standards of the superintendent prior to their employment, and

8. For necessary non-certified employees working in any class or program—one-half of the salary provided or $1500 annually per employee, whichever is less. (*Sec. 14-13.01, Ill. Stats.*)

The allocation for determining reimbursement for less than a full-time basis and less than a school year will be determined by rules of the superintendent.

If a child is attending a non-public school or special education facility, the school district of residence may pay the actual cost of tuition or $2,000 a year, whichever is less. A school district making such tuition payments is eligible for reimbursement from the state for the amount of such payments actually made in excess of $600 per student. The reimbursement will be made in the same manner as reimbursement for public special classes. Transportation to private day schools is reimbursed in the same manner as transportation to the public schools. (*Sec. 14-7.02, Ill. Stats.*)

School districts constructing buildings under joint agreement programs, who have a shortage of necessary funds for the payment of the district's share of the building project, may be granted $1,000 for each professional worker in the district. If, after this, the district is still short of funds, up to 50 percent of the reimbursements made to the district for regular special educational costs in one year—may be put toward the completion of the project. (*Sec. 14-13.01 Ill. Stats.*)

The school board of any district with a population of less than 500,000 may, by proper resolution, levy an annual tax not exceeding two percent upon the full fair cash value as equalized or assessed by the department of revenue for not more than five years for special education building purposes including joint building programs, if there are not sufficient funds available in the building fund of the district to pay the cost of the building. The levying of this tax must be approved by the superintendent of public instruction.

The revenue raised by this tax may be used only for the construction and maintenance of facilities for housing instructional programs, diagnostic services, and other special educational services but may not be used for the cost of maintenance of administrative facilities separated from special education facilities described above. (*Sec. 17-2.2, Ill. Stats.*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more school boards may enter into joint agreements to provide "needed special educational facilities" and to employ a director and other professional workers "needed to provide programs for handicapped children." Provisions of the agreement shall include but not be limited to administration, staff, programs, financing, housing, transportation, an advisory body, and the withdrawal of districts from the joint agreement by submitting petitions to the county board of school trustees. This act also provides for the designation of an administrative district to act as the fiscal and legal agent for the districts in the agreement. (*Sec. 10-22.31, Ill. Stats.*) See Facilities.

Professional workers may be employed by one of the districts in the agreement but will be reimbursed "on a mutually agreed basis by other districts that are parties to the joint agreement. Such agreements may provide that one district may supply professional workers for a joint program conducted in another district." (*Sec. 10-22.31a, Ill. Stats.*)

SERVICES

" 'Special education facilities' includes special schools, special classes, special housing, special instruction, special reader service, braillists and typists for visually handicapped children, transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, school social worker services, special administrative services, salaries of all required personnel, and other additional educational services required by the child because of his disability, if such services are approved by the superintendent of public instruction and the child is therefore under this article and the regulations of the superintendent of public instruction." (*Sec. 14-1.08, Ill. Stats.*)

A school psychologist is defined as a psychologist graduated with a master's or higher degree in psychology or educational psychology, from an institution of higher learning and whose courses of study and standards of scholarship are approved by the superintendent of public instruction. The school psychologist must have had at least one school year of full-time, supervised experience in the individual psychological evaluation of children approved by the superintendent and must hold a valid four-year permit (from the superintendent and renewable upon application and evidence of acceptable psychological work within the time period designated withinn the permit). (*Sec. 14-1.09, Ill. Stats.*)

" 'Professional workers' are defined to mean, trained specialists and are limited to speech correctionists, school social workers, school psychologists, psychologist interns, school social worker interns, special administrator interns, registered therapists, professional consultants, special administrator supervisors, giving full time to special education, and teachers of any class or program defined in this article meeting the requirements of this article, having the required special training and the understanding of techniques and special methods of instruction for children, who, because of their handicapping conditions, are placed in special education programs and who work in such special education programs." (*Sec. 14-1.10, Ill. Stats.*)

Special education teachers must hold a valid certificate and have any special training that the superintendent of public instruction requires. All other professional personnel employed in the class, service, or program, must have such a certificate and any special training that the superintendent may require. Persons to assist the teacher with special education services may be hired if they have the necessary training. (*Sec. 14-9.01, Ill. Stats.*)

An educational materials coordinating unit is established in the office of the superintendent of public instruction to provide the necessary staff and resources for the coordination, cataloging, standardizing, production, procurement, storage, and distribution of the educational materials needed by visually handicapped children and adults. The staff and resources of an instructional materials center also includes a library, audio visual program, and other types of instructional materials, which are adapted to the instruction of handicapped pupils.

A major purpose of the unit is the improvement of the instructional programs for handicapped children and the in-service training of all professional personnel associated with programs of special education. (*Sec. 14-11.01, Ill. Stats.*)

Districts maintaining a recognized high school may issue a certificate of graduation to handicapped pupils completing special education programs approved by the superintendent of public instruction. (*Sec. 14-6.01, Ill. Stats.*)

PRIVATE

If because of his handicap a child attends a non-public school or special education facility providing appropriate services in compliance with the rules and regulations of the superintendent, the district of residence may pay the actual cost of tuition charge for the child or $2,000 per year, whichever is less, and may provide him with any necessary transportation. However, transportation will not be provided to a residential school. If a child attends a non-public school facility providing a summer school program, the tuition charged the child for the summer school program or $500 per summer, whichever is less, may also be paid by the district with transportation to the school district of residence. A school district making such tuition payments is eligible for reimbursement from the state for all payments made exceeding $600 per student. The district is eligible for reimbursement for summer school tuition from the state in all amounts made in excess of $100 per student. The reimbursement is paid in accordance with Section 14-12.01 for the school year ending June 30. If it otherwise qualifies, a school district is eligible for transportation reimbursement and for reimbursement of tuition payments under this section whether the facility is within or without the state. Nothing in this section allows the reimbursement to a school district for the amount paid for the tuition or transportation unless the district certifies to the superintendent that the special education program of the district is unable to meet the needs of the child because of the child's handicap and the superintendent finds that the school district is in substantial compliance with Section 14-4.01. (*Sec. 14-7.02, Ill. Stats.*)

PERSONNEL

The superintendent of public instruction, with the advice of the advisory council, may make trainee or fellowship grants available to persons interested in working in the education of handicapped children for either part-time or full-time study designed to qualify them to become professional workers. To qualify for a traineeship a student must have earned at least 60 semester hours of college credit. To qualify for a fellowship, he must be a graduate of a recognized college or university. No more than 200 such grants will be given in any academic year and may not exceed $1,500 per academic year for traineeships and $3,000 for fellowships. An additional amount may be allowed to any approved institution of higher learning in Illinois for tuition and fees. Grants to summer and part-time students are awarded on a prorated basis.

Following the completion of an academic program, recipients of a traineeship or fellowship are expected to obtain, within one year, employment in an approved special education program in Illinois. They must continue this employment for one-half year for each year of their traineeship or fellowship. If this requirement is not fulfilled they may be required to remit to the state all or part of their grant. (*Sec. 14-10.01, Ill. Stats.*)

The superintendent of public instruction may contract with any institution of higher learning in Illinois to offer courses required for the professional training of special education personnel and may reimburse the institution of higher learning for any financial loss due to low enrollments, distance from campus, or any other substantial reason satisfactory to the advisory council. (*Sec. 14-10.01, Ill. Stats.*)

FACILITIES

Two or more school districts combining to form a joint agreement district for the provision of special education services may acquire, build, establish, and maintain sites and buildings necessary for the education of one or more types of handicapped children who are residents of the joint agreement area, with the approval of the advisory council on education of handicapped children and the superintendent of public instruction. The title to these sites may be held jointly by the trustees of the township or the county board of school trustees. After filing in writing the document which declares that the building is for the joint uses of such districts (according to the terms of the agreement between the districts), such joint agreement district possess the right of eminent domain. (*Sec. 10-22.31b, Ill. Stats.*)

INDIANA

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the General Assembly to encourage by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all." *(Art. VIII, Sec. 1, Ind. Const.)*

Compulsory Education Law: Children between the ages of seven and 16 must attend the public schools or other schools taught in the English language open to inspection of local and state attendance officers. Children must attend schools during the entire time the public schools are in session in the school district in which they reside. School superintendents of any district may, with the approval of and under the regulations concerning the procedures and requirements for complete evaluation of children of the state board of education, exclude or excuse from school, children found mentally or physically unfit for school attendance, but children may be excluded only for the present school year.

If a child otherwise subject to the compulsory attendance requirements is unable to attend school because of deafness, partial deafness, blindness, or partial blindness, the person having control or charge of the child must send the child who is between the ages of seven and 18 to the state school for the deaf or the school for the blind during the full school year unless discharged by the board of trustees of either of the schools. *(IC 20-8-8-5)*

Compulsory school attendance laws apply to all hearing handicapped children. *(IC 16-7-13-8)*

Medical care of handicapped children is the responsibility of the physician chosen by the family or guardian to attend that child. No handicapped child is excused from attending school unless the local health officer, upon a statement from the attending physician, certifies that attendance would be injurious to the child. *(IC 20-1-6-8)*

Responsibilities: School boards of any school corporations may, until July 1, 1973, and shall, thereafter, establish and maintain special education facilities for one or more types of handicapped children including the multiple handicapped. School corporations may, but are not required to, establish facilities for handicapped children below the age six or above age 18. *(IC 20-1-7-1)*

POPULATION

Definitions: "A 'handicapped child' means any child between the ages of three and 21 years, inclusive, who because of physical or mental disability, is incapable of being educated properly and efficiently through normal classroom instruction, but who, with the advantage of a special education program, may be expected to benefit from instruction in surroundings designed to further the educational, social, and/or economic status of the child."

Children in attendance at state schools for the deaf, blind, mentally retarded, mentally ill, and epileptic are not eligible for services under the special education provisions.

Under the rules and regulations of the state commission on general education, multiple handicapped children are eligible for special education services. *(IC 20-1-6-1)*

Age of Eligibility: Services are mandatory for exceptional children between the ages of six and 18 and permissive for those from three to six and 18 to 21. *(IC 20-1-6-1)*

IDENTIFICATION AND PLACEMENT

Census: All physicians, superintendents of hospitals, directors of local health and welfare departments, the state director of rehabilitation, superintendents of the state institutions serving the handicapped, or superintendents of school corporations that diagnose, treat, or provide care for handicapped persons must report the condition of all persons under their care to the state department of health within 60 days of beginning care. " 'Handicapped individuals' shall mean all individuals who by reason of physical, mental, or emotional defects or infirmity, whether congential or acquired by accident, injury, or disease, are or may hereafter be totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, or vocational participation in the normal process of living."

The reports will be solely for the use of the state government to fulfill its legal obligations and organizations having a legitimate interest in the information. Reports will not be open to public inspection or in any way be considered a public record. Reports from hospitals shall include birth defects. Reports of school corporations must include children excluded from school because of their disabilities as well as handicapped children attending regular or special education programs.

All reports will be forwarded to the state commission for the handicapped. The commission is responsible for tabulating and analyzing the reports and providing information to state departments and organizations having legitimate interest in such information. (*IC 16-4-6-1 to 16-4-6-4*)

Boards of school commissioners and school boards of all cities and towns and township trustees of each township must annually report, under joint regulations of the state board of education and the board of state charities, the number of problem children and children three years retarded in mental development who attend the public schools or who are of school age and reside within the jurisdiction. (*IC 20-10-27-1*)

All physicians or optometrists must state in writing within ten days after diagnosis to the state board of health the name, age and address of all persons diagnosed as blind or having a visual impairment which interferes measurably with the person's normal daily activities or interferes with the person's ability to earn a livelihood. The state board on the first business day of each month will send a copy of the report in the case of all persons under age 17 to the Indiana School for the Blind and the agency for the blind and in the case of persons over 17 to the agency for the blind and, if requested, to the local school corporation and organizations serving the blind. All reports will be kept confidential and used solely for the purpose of determining eligibility of such persons for assistance or rehabilitation.

Upon receiving such a report the Indiana School for the Blind or agency for the blind has the positive duty of contacting the person named in the reports and ascertaining his exact needs and informing him of available local services. In the case of persons under the age of 17, the School for the Blind has the primary duty of initially contacting the person and notifying the agency for the blind of its findings. Physicians and optometrists are not prevented from making a referral to the local school corporation, agency or organizations working with the blind. (*IC 1971, 16-4-5-1*)

Screening: All political subdivisions of the state must conduct annual screening of the visual acuity of all children enrolled in or transferred to the first, third, and eighth grades, as well as all school children suspected of having a visual defect in schools under their jurisdiction. Regulations concerning vision testing, equipment, qualifications of vision testing personnel, and screening procedures are the joint responsibility of the state boards of health and education. Records of all tests must be continuously maintained to provide information for interpreting, promoting, and maintaining the health of school children. (*IC 20-8-25-1*)

The board of school trustees and the board of school commissioners of every city or town and the trustees of any township must annually administer audiometric tests or a similar test with accepted scientific instruments or devices to determine the hearing efficiency of school children in grades one, four, seven and 10, all children transferred from other school districts, and all children suspected of having hearing defects. School corporations may hire necessary technicians to conduct the testing. Records of all tests will be continuously maintained to assist in diagnosing and treating any auditory abnormality.

Diagnosis and treatment is made on the recommendation of an explanation by a "practitioner of the healing arts with a limited license to practice." If the hearing of any child is impaired to the extent that he cannot be taught in the regular classes of the corporation, the trustees and/or commissioners should provide any necessary remedial measures, correctional devices, approved mechanical auditory devices, and prescribe courses in lip reading by approved instructors. The superintendent of public instruction and the director of vocational rehabilitation should cooperate with the local school corporations in providing hearing aids. All instructors in lip reading must be approved by the two departments. Training courses for teachers of the hard of hearing will be prescribed by the proper authorities in all state teachers colleges. (*Ch. 53, Acts of 1953*)

Special Education Evaluation: Eligibility for all special education classes and programs will be determined by appropriate specialists. (*IC 20-1-6-8*)

ADMINISTRATIVE RESPONSIBILITY

The commission on general education shall adopt and establish the rules and regulations necessary for the administration of the special education program. (*IC 20-1-6-3*)

A division of special education is established under the state board of education. The director of the division will be appointed by the governor. The director is responsible for:

1. General supervision of all classes and schools for handicapped children and coordinating the work of these schools;
2. Formulating, with the approval of the state board of education, rules and regulations governing the curriculum and instruction including the licensing of personnel in the field of education;
3. Inspecting and rating of all schools or classes for handicapped children in regard to property, personnel, buildings, equipment, and supplies, and
4. Appointing necessary personnel needed to administer the special education services. (*IC 20-1-6-2*)

Schools or classes for handicapped children operated by the school corporations must adhere to the laws relating to the operation of the public schools and are under the supervision of the division of special education. (*IC 20-1-6-3*)

The educational program of the state school for the deaf must adhere to the standards established by the department of public instruction for the public school classes, but the immediate supervision of schools is under the direction of the superintendent of the school, who is appointed by the state health commissioner. Subject to the approval of the state health commissioner, the superintendent of the school has complete charge and management of the school and is charged with the direction of the education of all students in atttendance as well as the evaluation and improvement of the school staff and educational program. (*IC 16-7-13-2 to 16-7-13-4*)

The state board of education is designated as the authority to accept any federal funds appropriated for the purpose of aiding in the education of handicapped children. (*IC 20-1-6-4*)

The state departments of health and mental health are responsible for residential special education programs. (*IC 20-1-7-1*)

The Indiana School for the Blind is administered by the state board of health and is under the complete administrative control and responsibility of the state health commission but all educational facilities within the school must meet the standards established by the department of public instruction for regular public schools. (*IC 1972, 16-7*)

PLANNING

By July 1971, all school corporations were to have submitted to the state superintendent a comprehensive plan delineating how all resident handicapped children are to receive special educational services. School districts were allowed to cooperatively draw up a plan for a joint school services program to meet the needs of all handicapped children within their jurisdiction. This approach was to be used because of population sparsity, geographic factors, or other substantial reasons which made it desirable. When formulating plans, school districts were to consider programs operated by the state board of health and department of mental health. Professional consultant assistance to local school corporations was available from the superintendent of public instruction. (*IC 20-1-7-1*)

A state advisory council appointed by the superintendent assists the department of public instruction in developing a statewide plan for free public school education for handicapped children. Because of the responsibilities of the state departments of health and mental health for residential special education programs, the commissioner of health or his designate and the commissioner of the department of mental health or his designate are ex officio members of the council. Members are selected on the basis of their knowledge of, or experience in, problems of educating handicapped children. Further responsibilities of the state advisory council include advising the superintendent and the commission on general education regarding all rules and regulations, recommending approval or rejection of completed comprehensive plans of the school corporations, and recommending to the superintendent and the commission on general education a comprehensive plan meeting the needs of handicapped children. In the event any school district did not complete its plan by July 1971, a plan developed by the state council was to have been disseminated to all school corporations affected by the plan. This plan is to be considered advisory only. Any plans proposed by school districts must be considered by the council within 60 days after their receipt. The director of special education acts as executive secretary to the council and furnishes any professional and necessary clerical assistance. (*IC 20-1-7-1*)

FINANCE

Any school corporation maintaining a school will pay the operating expenses for each pupil attending the school and is entitled to receive state special education reimbursement. Any school corporation operating schools or classes shall send, upon the request of the division of special education, to the office of the state superintendent a certified statement of the average cost per pupil for maintaining such education, excluding pupils attending the school and residing in other corporations, and the average cost of education per pupil for normal children based upon average daily attendance (ADA). The average cost for normal children will include state aid, if any.

Reimbursement to school corporations by the state is subject to any standards, requirements, rules and regulations of the commission on general education. Before any type of special class is organized, approval must be obtained from the commission on general education. (*IC 20-1-6-3*)

All claims approved by the state will be paid out of the common school revenue fund. An amount sufficient to cover all the claims is reserved by the state superintendent when making the semi-annual apportionment. Claims will be paid in the same manner as common school revenue funds are paid. If there is insufficient money in the common school revenue fund to pay all the claims, the claims will be paid out of the excise fund allocated to the public schools. A sufficient amount to pay off claims from the excise fund shall be reserved by the state superintendent. State reimbursement may not exceed 80 percent of the claims for approved special education programs. (*IC 20-1-6-3*)

The commission on general education must certify the amount spent for handicapped children to the auditor of the state who will reimburse the corporations 70 percent of the salary of speech and hearing therapists and occupational therapists; 50 percent of the cost for psychological services, special education administration, and salaries of paraprofessional personnel, and 80 percent of the approved cost of home teaching, school-to-home telephone, and transportation from appropriated funds.

For the support of approved special education classes the commission on general education will provide for a weighted average daily attendance assignment for each pupil in special education classes to be used for computing the minimum foundation funds when funds are available.

If the state receives funds from the U.S. government to aid in the operation of any school for handicapped children, the division for special education may adjust the above to conform to and take into consideration the federal grant. (*IC 20-1-6-3*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

School boards of one or more school corporations establishing and maintaining educational facilities and services for handicapped children exercise powers and duties similar to those prescribed for the establishment, maintenance, and management of other recognized educational facilities and services. School boards may include only eligible children in the program and must comply with all rules and regulations established by the superintendent and the state board of education. Any school corporation may issue diplomas or certificates of graduation to handicapped pupils completing special educational programs approved by the superintendent and the commission on general education. (*IC 20-1-7-1*)

If a child, residing in a school district and attending a class or school in another school corporation because of his handicap or multiple handicaps, his district of residence grants the proper transfer certificate to provide necessary transportation, according to rules of the commission on general education. The child's district of residence also pays the per capita cost of educating the child to the other school corporation.

If the school corporation is involved in the joint school service and supply program, tuition and transportation payments will adhere to the written agreement of the participating school corporations. If the transfer certificate is issued and payment is made on a per capita cost basis, the per capita cost is computed in the following manner: the cost of maintaining any special education facility for the current school year is first determined and includes the following expenses applicable only to this educational facility:

1. Salaries of teachers, professional workers, necessary non-certified workers, clerks, librarians, custodial employees, readers, and any district taxes specifically for pension and retirement benefits;
2. Educational supplies and equipment, including textbooks. If any equipment has useful life in excess of three years, its purchase price will be amortized in calculating cost over its useful life or for a period of five years, whichever is less;
3. Operation of the physical plant, including heat, light, water, repairs, and maintenance;
4. Administrative cost and communication;
5. Auxiliary services including health services, rental of buildings and equipment, and food services, but not including transportation, and
6. Capital outlay expenditures including the cost of construction, remodeling, payments for both interest and principal. Bonded indebtedness during the prior school year, in addition to an amount equal to

five percent of the fair evaluation of the existing plant, shall be included in the computation of the per capita cost.

The total cost thus determined will be deducted from the state reimbursement due, not including any state reimbursement for transportation. The net cost will be divided by the average number of pupils in average daily attendance in special education facilities for the school year in order to arrive at the net per capita tuition cost. (*IC 20-1-6-18*)

Two or more participating corporations may provide for a special education school (". . .a department, school or school corporation established, maintained, and supervised for the education of handicapped children in accordance with this section."), by adopting an agreement with the following provisions: 1. a plan for the organization, administration, and support of the school; 2. a date for the establishment of the school at the beginning of the school year, and 3. the extension of the special education school for a minimum period of five years, a provision that the school will extend from school year to school year unless canceled by the governing bodies of a majority of the participating school corporations at least one year prior to termination of the agreement.

The agreement is an identical resolution adopted by the governing bodies of all participating school corporations. During the term of the agreement, it may be modified by unanimous vote of all the participating school corporations.

The agreement may provide for the acquisition of sites, buildings, and equipment by purchase or by lease, from any of the participating school corporations for the term of the agreement or by lease.

The cost for the special education school in each school year, will be borne by the participating school corporations in accordance with their respective percentage shares. A percentage share is the percent which a participating school corporation's assessed valuation bears to the total assessed valuation of all participating school corporations joining in an agreement. The "assessed valuation of a participating school corporation for any school year shall mean the net assessed valuation of such school corporation for the immediately preceding March 1, adjusted in the same manner as any adjustment is made in determining the amount of state distribution for school support." Upon termination of the agreement, participating school corporations are liable for their respective percentage shares of any long-term leases or other long-term obligations on the same annual percentage share as if the agreement had not been terminated, unless the terms of the agreement provided otherwise.

If a teacher from any of the participating school districts becomes a teacher in the special education school, he retains tenure in the participating school corporation as if he has continued teaching in the participating school corporation. His employment may only be terminated by the governing board of the participating school corporation.

All agreements made under this section as well as any modifications are not effective unless they are approved by the general commission of the state board of education.

A special education school may be operated and managed and its budget determined by a board consisting of the president (or trustee in the case of a school township) of the governing body whom the president (or trustee) has designated. The designated members may be changed by the president (or trustee) at any time.

The managing board of the special education school may designate by resolution, three or more of its members to constitute an executive committee. This committee may exercise all the powers of the managing board except determining the budget. The committee will submit, however, a summary of its actions to the managing board at least semi-annually, and the resolution binding the local school corporations may be amended or changed at any time by the board. (*IC 1971 Title 20, Art 1, Ch. 6*)

SERVICES

A school corporation, acting individually or in a joint school service program with other corporations, may establish and maintain instructional facilities for the education of handicapped children including the multiple handicapped. They may also provide transportation for handicapped children residing in the geographical limits of the corporation to another school corporation maintaining the appropriate facilities. (*IC 20-1-6-3*)

School corporations may provide home instruction for all handicapped children.

All nurses, therapists, doctors, psychologists, and related specialists employed for the special education program must be registered and authorized to practice under the laws of the state and are subject to any additional examination that the division of special education may require. A school corporation, either individually or in a joint services program, may purchase special equipment. All handicapped children receive credit for completed school work on the same basis as normal children doing similar work. (*IC 20-1-6-6-3*)

A hearing handicapped child eligible for services in the training centers is defined as "any educable child of sound mind between the ages of three and 20 who has a hearing deficiency to the extent that it is impracticable or impossible for such child to benefit from or participate in a normal classroom program of the public schools in a school district of the residence of the child, and his education requires a modification of the normal classroom program." (*IC 20-1-613*)

Teachers in classes and schools for handicapped children are appointed in the same manner as other public school teachers. They must possess the usual qualifications required of teachers and any special training the division of special education may require. The qualifications of paraprofessional personnel are subject to the determination of the department of public instruction and the state board of education. (*IC 20-1-6-3*)

In order to coordinate services to hearing handicapped children, the hearing commission was established. The commission, composed of five members (one of whom is the state superintendent of public education), has authority to coordinate all activities relative to the education of hearing handicapped children and to cooperate with private organizations whose purpose is furthering the educational opportunities for the hearing handicapped. The commission is also responsible for coordinating the programs of the division of special education, the department of public instruction, and the activities of the state school for the deaf. With the approval of the state board and the hearing commission, a school corporation may provide a training center for the instruction and training of hearing handicapped children.

The training centers are for the oral training of hearing handicapped children. There can be no more than five centers with a total of 15 training units in the state. (A unit is a class established in a center, consisting of not less than six or not more than 10 children.) School corporations forming such units have the authority to convert, remodel, or construct school rooms for this purpose. The corporation must pay the cost of the conversion, remodeling, and/or construction and the cost of any necessary equipment, but the state of Indiana will reimburse the corporation in an amount not exceeding $1,000 for the purchase of equipment. All plans and contracts must be approved by the commission and the state board. The cost of conversion, remodeling, and/or construction may be financed as other school buildings are financed.

School corporations operating training centers receive an amount equal to the per capita cost of educating normal children in the school corporation. At the end of each school semester, corporations must file a certified statement of the average cost per pupil for maintaining these classes and the average cost per pupil for normal children based on the average daily attendance with the state board. The average class for normal children includes the apportionment of school unit funds and the state aid, if any. The state board will reimburse the excess costs of the maintenance of these classes up to $300. (*IC 20-10-28-1*)

Any deaf-blind child between ages four and 14 may apply, through any relative, friend, or person assuming responsibility for the child's care, to the superintendent of the state for the deaf for temporary admission to determine whether the child is a proper subject for limited care and education at state expense. After receipt of the application, the superintendents of the school for the deaf and the school for the blind will jointly determine if the child is eligible. He will receive a physical and a mental examination to determine if he could make normal progress and develop as much as could be reasonably anticipated.

After the examinations are completed, the superintendents shall present the entire case to the administrative head of the division of medical institutions. If he finds it in the interests of the child and the state to give the child care and education at the state expense, he will then contract, on a year to year basis, with any school special education training center, or institution providing services to deaf-blind children. The child may continue the schooling until he reaches age 21, if his progress warrants it. The cost will be paid equally from any funds appropriated to the schools for the deaf and the blind. (*IC 16-7-14-1 and 16-7-14-2*)

School authorities of cities, towns, and townships in which there are 25 or more problem children who are at least three years retarded in mental development, may establish classes or courses to give instruction adapted to the children's needs and mental attainments. (*CH. 53, Acts of 1931*)

Any parent or guardian unable to pay all or part of the cost of maintenance of a child in dormitories may apply to the county department of public welfare in the district of residence. The department will then investigate the financial condition of the parent or guardian and the needs of the child. If the department finds that the parent or guardian is unable to meet all or part of the expense of maintaining the handicapped child in the dormitory, and there is no other practicable way for the child to obtain an education, it shall give the necessary financial assistance up to 100 percent of the total maintenance. This asistance is to be repaid to the county welfare fund. These payments may be repaid direct to the parents or the authorities responsible for the operation and administration of the school. (*IC 20-1-6-7*)

PRIVATE

The superintendent of public instruction may contract with private schools in or out of state to pay the excess cost of educating children of school age who may or may not be of normal intellectual capacity whose handicap is of such intensity as to preclude achievement in the local school setting and for whom it is economically unfeasible to establish in a local or regional special education program. It must be determined through appropriate diagnosis that the child can profit educationally from this type of program. Also any payment of state monies may be made only in situations where the cost of the services is more than the regular cost of educating children of like age and grade levels in the child's community of residence, and after each local school corporation provides its share of the total tuition cost (the regular per capita cost of general education in that community). Local school boards may pay tuition support for handicapped children attending schools approved by the superintendent and the commission of public instruction. The commission on general education is responsible for formulating the rules and regulations governing the types of handicapped children eligible for this program. (*IC 20-1-6-9*)

PERSONNEL

The school for "feeble-minded youths" may make its resources available for the assistance and training of teachers of special classes in public schools. (*IC 20-10-27-3*)

FACILITIES

The division of special education may authorize, with the approval of the state board, school corporations to purchase, convert, remodel, or construct rooms or buildings for special schools for handicapped children. The director should consider geographical location of any previously authorized schools in an effort to get these schools located near the homes of handicapped children to be served. The school corporation will pay the cost of purchase, conversion, remodeling, and/or construction, and the cost of building equipment for any such school, and may finance the conversion, remodeling, and/or construction as other school buildings are financed. If all plans and contracts have been submitted in advance to the director of special education and have been approved by the board of education, the school corporation establishing the school may send all of its handicapped children there. They also shall admit, as long as the facilities permit, any other handicapped children in the state who are eligible for services and who are not provided with opportunities to attend adequate schools in their own school corporations. (*IC 20-1-6-5*)

School corporations establishing special schools or classes for the handicapped may purchase, convert, remodel, lease, or construct and equip any building necessary to provide dormitories for handicapped children receiving services. The cost of the dormitories and equipment will be financed with approval secured in the same manner as for school buildings for handicapped children. School corporations shall estimate the average cost for room, board, and medical and personal services for each handicapped child living in the dormitories and will charge the parent or guardian of any child living in the dormitories accordingly. The cost paid by the parent or guardian will be credited to the fund of the local school corporation for education of handicapped. (*IC 20-1-6-6*)

A school corporation, acting individually or in a joint school services program with other corporations, may convert, build, or lease the necessary school buildings or dormitories, or they may use existing buildings for the purpose of establishing and maintaining classes for one or more pupils who are residents of the state and who are defined as handicapped. (*IC 20-1-6-3*) See Services.

IOWA

RIGHT TO AN EDUCATION

Constitution: "The board of education shall provide for the education of all the youth of the state, through a system of common schools and such schools shall be organized and kept in each school district for at least three (3) months in each year. Any district failing for two consecutive years to organize and keep up a school as aforesaid, may be deprived of their portion of the school fund." (*Art. IX, Sec. 12 Iowa Const.*)

Compulsory Attendance Law: All persons having custody of any child, who is between the ages seven and 16 and in proper physical and mental condition, shall have the child attend some public school for at least 24 consecutive school weeks in any school year. (*Sec. 299.1 Iowa Code*)

School districts or county boards of education are not required to keep a child who needs special education in regular instruction if the child cannot sufficiently profit from the work of the regular classroom. They are also not required to keep the child in a special class of instruction if it is determined that the child can no longer benefit or needs more specialized instruction available in the special state schools. No provisions of this law may be interpreted to require or compel any persons who are members of a well recognized church or religious denomination, and whose religious convictions in accordance with the principles or tenets of their church or religious denomination are opposed to medical or surgical treatment for disease, to take a followup course of physical therapy, or submit to medical treatment. The parent or guardian who is the member of such a church or religious denomination and who has such religious convictions shall not be required to enroll a child in any course of instruction utilizing medical or surgical treatment for disease. (*Sec. 281.8 Iowa Code*)

Responsibilities: The board of directors of any school or county board of education may provide special educational services to handicapped children. If there are not enough children of any special type in the school district to warrant establishment of a special class, these children may be instructed in any nearby school district. (*Sec. 281.4 Iowa Code*)

Children between seven and 19 years of age who cannot be educated in the public schools because they are deaf, blind, or severely handicapped will be sent to the proper state school unless exempted. Any person having such a child in his custody must see that the child attends school during the school year. (*Sec. 299.18 Iowa Code*)

POPULATION

Definitions: "The term 'children requiring special education' shall be interpreted for the purpose of this chapter as either of the following:

"(1) Children under 21 years of age who are crippled, have defective sight or hearing, or have an impediment in speech or heart disease or tuberculosis or who, by reason of physical defects, cannot attend the regular public school classes with normal children;

"(2) Children under 21 years who are certified to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.

"Provided that the term 'children requiring special education' shall include children under five years of age, but shall not include the blind, the deaf, and other physically and mentally handicapped children attending schools and institutions provided by the state." (*Sec. 281.2 Iowa Code*)

Age of Eligibility: Special education services may begin at birth and extend through age 21. However, any person who, because of a congenital defect, accident, or prolonged illness, is unable to complete the special education requirements by his 21st birthday may have the period of special education extended for three years more. (*Sec. 281.8 Iowa Code*)

IDENTIFICATION AND PLACEMENT

Census: Within 10 days after the regular July meeting of the school board, the secretary of the school board of each district must file with the county superintendent a report showing the names, ages, and post office addresses of all residents (regardless of age) who are so blind that they cannot acquire an education in the county schools; all persons between the ages of five and 35 who are so handicapped that they cannot obtain education in the public schools; and the name, sex, age, and disability of every physically handicapped or mentally retarded person of school age with the name and post office address of parent or guardian. (*Sec. 291.10 Iowa Code*)

The assessor, when making his assessment, will record the names, ages, sexes, and post office addresses of all deaf, blind, or severely handicapped persons within the county. The county or city assessor will forward these to the secretary of the state board of education within 30 days after they are completed. (*Sec. 299.17 Iowa Code*)

As part of the school census, each sub-director shall, between June 1 and 15 in every even numbered year, make a list, citing the names, sexes, ages, and disabilities of physically handicapped and mentally retarded persons of school age with the names and post office addresses of their parents or guardians. By June 20, the sub-director will send this to the school secretary of the township who will then compile the full record. (*Sec. 279.22 Iowa Code*)

The state department of public health shall furnish, when requested, to the state division of special education, information obtained from birth certificates relative to the name, address and disability of any case of congenital deformity or physical defect. The state crippled children's division will, when requested, furnish to the state division of special education names, addresses, and disabilities of all children on their registers. (*Sec. 281.5 Iowa Code*)

Special Education Evaluation: Children requiring special education must be certified in accordance with requirements established by the division of special education. Examinations of children must be made preliminary to certification. Necessary examinations are to be prescribed by the state division of special education. Final decision in the case of the disagreement or appeal will be the responsibility of the state superintendent. He may secure the advice of competent medical and educational authorities including the state department of health, university hospitals, state department of social welfare, superintendent of the state school for the deaf, superintendent of the Iowa Braille and Sight Saving School, and the superintendent of the state tuberculosis sanatorium. (*Sec. 281.7 Iowa Code*)

After a school district or county board has provided for any child requiring special education either by assignment to a special class or by special instruction, it is the duty of the parent or guardian of the child to enroll him for instruction unless a doctor's certificate is filed with the secretary of the school district showing that it is inadvisable. (*Sec. 281.6 Iowa Code*)

ADMINISTRATIVE RESPONSIBILITY

The division of special education is responsible for the promotion, direction, and supervision of education for children requiring special education in the public schools. The state superintendent, with the approval of the state board, is responsible for organizing the division and employing necessary personnel. (*Sec. 281.1 Iowa Code*)

The division, subject to the approval of the state board, has the following duties and powers:

1. Aiding in the organization of special schools, classes, and instructional facilities and supervising the system of special education;
2. Establishing the standards for teachers, giving examinations to teachers, and issuing them certificates;
3. Adopting plans for equitable reimbursement in whole or in part for the cost of carrying out programs in special instruction;
4. Adopting plans for the establishment and maintenance of day classes, schools, home instruction, and other methods;
5. Purchasing and otherwise acquiring special equipment, appliances, and other aids for use in special education as well as loaning and leasing the same under department rules and regulations;

6. Prescribing the courses of study and curricula, special schools, classes, and special instruction, including physical and psychological examinations, and prescribing minimum eligibility requirements for children;
7. Providing for certification, by competent medical and psychological authorities, on the eligibility of children for admission to or discharge from special schools, classes, or instruction;
8. Initiating the establishment of classes for children requiring special education in hospitals and convalescent homes in cooperation with the management of such facilities and local school districts and county boards of education;
9. Cooperating with the school districts and county boards in arranging for any child requiring special education to attend school in a district other than the one in which he resides;
10. Cooperating with the existing agencies such as the state department of social welfare, state department of public health, state school for the deaf, the Iowa Braille and Sight Saving School, the tuberculosis sanatorium, children's hospitals, or other agencies concerned with the welfare and health of children requiring special education and the coordination of the educational activities of the children;
11. Investigating and studying the needs, methods, and costs of special education for children, requiring special education, and
12. Making other necessary rules and regulations. (*Sec. 281.3 Iowa Code*)

The state board of regents is responsible for the Iowa Braille and Sight Saving School, the state school for the deaf, the state sanatorium, and the state hospital-school. (*Sec. 262.7 Iowa Code*)

PLANNING

Statutes contain no specific provision for the handicapped in this area.

FINANCE

Districts or county boards of education maintaining approved special education programs may receive state reimbursement for the excess cost of instruction above the per pupil cost of instruction in the regular curriculum of the district. If the program is established by the county board of education, the average cost of instruction of pupils in the participating districts will be determined in the following manner: Cost of instruction for all pupils exclusive of those in special education will be determined on a per pupil basis. The total cost of instruction of all pupils in special education will then be determined on a per pupil basis. The excess cost per pupil in special education will be the difference between the cost per pupil of all children exclusive of those in special education and the cost per pupil in special education. Excess per pupil cost multiplied by the average number of pupils in special education in the district or county is the amount that that district or county is entitled to receive.

The cost per pupil, both in special education and in the regular curriculum, is based on the following: general administrative costs, instructional costs, health service, attendance offices, plant operation, plant maintenance including equipment, transportation and insurance. This section applies to all programs existing prior to July 1, 1973 and to the continuation of existing programs after that date. (*Sec. 281.9 Iowa Code*)

By June 20 of each year, the school districts or counties must report to the division of special education any necessary information in order for the division to determine the amount of reimbursement to which the county or district is entitled. (*Sec. 281.10 Iowa Code*)

A new law specifies that: "A school district, county board of education, or joint county board of education that provides special education as required by this chapter shall, prior to March 1, 1972, and each March first thereafter, apply to the department of public instruction, upon forms prescribed by the department, for qualification to receive reimbursement pursuant to this chapter. During the following fiscal year the department shall approve each application and qualification if the district, county board of education, or joint county board establishes all of the following:

"1. That there are sufficient students within the area who are in need of the instruction.

"2. That the applying unit is the unit that can best and most efficiently provide for the instruction without duplicating services otherwise provided, as opposed to another available educational unit.

"3. That the unit has qualified teachers available.

"4. That the instruction is a natural and normal progression of a planned course or courses of instruction, and that this progressive growth factor is not out of proportion to the ability of the educational unit to pay for the courses of instruction.

"5. That all reimbursement sought is for actual delivery of special education services and not for administrative costs.

"6. Other factors as the department may require.

"There is hereby appropriated out of the general fund of the state to the department of public instruction beginning July 1, 1973, a sum sufficient to pay all approved applications for reimbursement pursuant to this chapter and this section, to the extent that the approved applications are for expanded special education programs beyond those programs provided for the fiscal year commencing July 1, 1971, or January 1, 1972, but only to the extent that the expanded programs would have qualified for state reimbursement pursuant to this chapter, as interpreted by the rules and regulations of the state department of public instruction effective on July 1, 1970." (*Sec. 281 Iowa Code*)

To aid the state board in estimating financial requirements for the program for exceptional children, at the time of the annual school census, the secretary of each school district will file a report with the county superintendent listing the name, sex, age, post office address, and disability of every physically or mentally handicapped person of school age, with the name and post office address of his parent or guardian, and any other pertinent information. Copies of all reports will be sent by the county superintendent to the division special education by August 1. (*Sec. 281.5 Iowa Code*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

County boards of education in two or more adjacent counties may merge, with the approval of their respective boards of directors, the county school systems into one school system. The merger must be approved by the state board of public instruction before becoming effective. The notice of the merger must be published at least 20 days prior to the effective date. The following provisions apply to merged systems:

1. The merged school system must be known as the joint county system.
2. The merged system must have one tax base made up of the combined tax bases of the respective county school systems.
3. The merged system becomes effective on the July 1 following the approval of the merger.
4. The territory of the joint county system is divided into six election areas by the affected county boards. If there are changes in the area of the system, the joint board of education will make the necessary adjustments to equalize territory and population size of the election areas. No change will be made less than 60 days prior to the dates of the annual school election.
5. There will be a joint board of education consisting of seven members, one elected from each of the respective election areas.
6. Joint boards or county boards, subject to the approval of the state board, may provide courses and services for physically, mentally, and educationally handicapped students; provide special and remedial courses and services, educational television, and vocational rehabilitation training centers and workshops, and may lease, acquire, maintain, and operate necessary facilities and buildings.
7. Joint boards or county boards are authorized to apply for and accept available state and federal funds.
8. Joint boards exercise all the powers and duties imposed on county boards by statute. (*Sec. 273 Iowa Code*)

Children may be instructed in a nearby school district in which special classes have been established by mutual agreement of the board of directors of the affected school districts and by payment of tuition, or the county board of education may establish special classes in cooperation with local boards. (*Sec. 281.4 Iowa Code*)

SERVICES

When providing special services to children requiring special education, the board of directors of any school or county board of education may provide transportation; maintain one or more suitable special classes; provide for instruction of children in regular classes, and provide special facilities and equipment for special classes, special schools, or home instruction as part of the local or county school system. The board may also prescribe the use of other aids to special education such as physical therapy, corrective gymnastics, rest periods, warm lunches, social and vocational counseling, and training. Local districts and counties providing special education must employ qualified teachers certified as teachers for children requiring special education. (*Sec. 281.4 Iowa Code*)

The state board of regents may maintain, in conjunction with the state university in Iowa City and the university hospital, a hospital-school for the education and treatment of severely handicapped children. (*Sec. 263.9 Iowa Code*)

The hospital-schools may provide education, care, and training for severely handicapped persons. The hospital-schools are conducted in conjunctionn with the activities of the University of Iowa's children's hospital; as far as practicable, the facilities of the university children's hospital also will be utilized.

Persons under the care and supervision of the board of control, who are severely handicapped, may be transferred to the hospital-school on terms agreed upon by the state board of education and the state board of control. (*Sec. 263.10 Iowa Code*)

Persons eligible for services at the hospital-school for the severely handicapped include: "Every resident of the state who is not more than 21 years of age, who is so severely handicapped as to be unable to acquire an education in the common schools, and every such person who is age 21 and under 35 who has the consent of the state board of education, shall be entitled to receive an education, care, and training in the institution." The term "severely handicapped" means, in this context: "persons who are educable but severely physically and educationally handicapped as the result of cerebral palsy, muscular dystrophy, spina bifida, arthritis, poliomyleitis, or other severe physically handicapping conditions." (*Sec. 263.10 and 263.11 Iowa Code*)

A child attending the hospital-school is counted as a pupil attending the public schools for state aid purposes. (*Sec. 265.6 Iowa Code*)

Special contracts for the transportation of pupils entitled to transportation may be entered into only if it is more economical to make the special provision than it is to provide the same by a regular bus route, or if because of a child's physical or mental handicap, he may not be transported with safety by bus. (*Sec. 285.11 Iowa Code*)

PRIVATE

Districts may contract with approved private facilities to provide services for children requiring special education if public facilities are unavailable.

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

KANSAS

RIGHT TO AN EDUCATION

Constitution: "The legislature shall encourage the promotion of intellectual, moral, scientific, and agricultural improvement by establishing the uniform system of common schools and schools of a higher grade. . . ." (*Art. VI, Sec. 2, Kan. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 who are physically or mentally unable to attend school are exempt from the compulsory attendance requirements.

If a school district has provided special education facilities for an exceptional child, it is the duty of the parent or guardian to enroll the child, unless a doctor's certificate is filed with the clerk of the school district, showing that it is inadvisable for the child to receive special education services. (*KSA 72-5339*)

All parents, guardians, or other persons having control of a deaf or blind child, otherwise physically and mentally qualified and between the ages of seven and 21, must send the child to some suitable school where the blind and deaf are taught and educated until completion of a prescribed course of study or until the child has reached age 21. Deaf children will receive instruction conducted either manually or orally, or both, at least nine months in each year. (*KSA 72-5301*)

School districts are not required to keep a child requiring special education in regular instruction where the child cannot sufficiently profit from the work of the regular classroom, nor are they required to keep such a child in the special class for instruction for children requiring special ecucation if it is determined that the child can no longer benefit from this type of instruction or that he needs more specialized instruction available in special state schools. No person who is a member of a well recognized church or religious denomination and whose convictions are opposed to medical or surgical treatment for disease are required to take or follow a course of physical therapy or submit to medical treatment, no shall any parent or guardian who is a member of such a church or religious denomination or who has such religious convictions be required to enroll a child in any course of instruction which utilizes medical or surgical treatment of disease. (*KSA 281.8*)

Responsibilities: If a school district or county board has provided special education facilities for any child requiring special education, either by admission to a special class or by special instruction, the parent or guardian of the child is responsible for enrolling the child in the program unless a doctor's certificate filed with the secretary of the school district states that it is inadvisable for the child requiring such special services to receive the authorized special education services. (*KSA 281.6*)

The governing bodies of all school districts shall establish special classes or programs for all developmentally disabled children. Such classes shall be planned and operative not later than July 1, 1974.

School districts may establish and organize one or more suitable special classes and provide for instruction in regular classes or in the home or provide special facilities and equipment for special classes, special schools, or home instruction, as part of the school system for exceptional children as required for effective education. (*KSA 72-5337*)

POPULATION

Definitions: " 'Developmentally disabled children' means children who are under 21 years of age who suffer from a disability attributablle to retardation, cerebral palsy, epilepsy which has continued or can be expected to continue indefinitely or has been found by appropriate examinations given by a competent authority, approved by the director, to be best educated in a special class rather than a school room."

" 'Home bound children' means children who: 1) are under 21 years of age; 2) are eligible, to be determined by standards for eligibility established by the state board; 3) because of illness or other handicap cannot attend regular classes in public school, and 4) have been certified by their respective attending physicians as being in such condition that they must remain out of their regular school classes and as being physically able to receive instruction in the home or in a hospital or in both." (*KSA 72-5344*)

" 'Exceptional children' means children who: (1) are under 21 years of age; (2) are educable to be determined by standards for educability established by the division; (3) are crippled or hard of hearing or emotionally or socially maladjusted or have defective sight or defective speech or cerebral palsy or who are delicate (including heart conditions) or tubercular; or (4) intellectually gifted and who have been found by competent authority approved by the director to be best educated by special instruction from a special teacher either on a full or part-time basis." (*KSA 72-5360*)

"The term 'children requiring special education' shall be interpreted for the purposes of this chapter as either of the following: (1) children under 21 years of age who are crippled or have defective sight or are hard of hearing or have an impediment of speech or heart disease or tuberculosis, or who by reason of physical defects cannot attend the regular public school classes with normal children. (2) Children under 21 years who are certified to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.

"Provided, that the term 'children requiring special education' shall include children under 5 years of age but shall not include the blind, the deaf and other physically and mentally handicapped children attending special schools and institutions provided by the state." (*KSA 281.2*)

Age of Eligibility: Eligible children may receive special education services from birth through age 21. (*KSA 72-5360*)

Any person because of congenital factors, accident, or prolonged illness, unable to complete his special education program by his 21st birthday, may have the period continued by the school district for up to three additional years. (*KSA 72-5341*)

IDENTIFICATION AND PLACEMENT

Census: All school districts must take an annual school census and file the report with the county clerks. The census will include the names, sexes, ages, post office addresses, and disabilities of all exceptional children of school age. Name and post office address of each child's parent or guardian and other information the division of special education may require will also be included. When required by the state division of special education, the state crippled children's commission will furnish the names, addresses, and disabilities of all children on their registers. The school census takers are required to report all exceptional children not reported in the public schools, giving the name, age, date and nature of the handicap of each physically and mentally handicapped child as well as the name and address of the guardian or the person having control or custody of the child. (*KSA 72-5338*)

All superintendents of schools and persons in charge of every private school must report to the division of special education of the state department of public instruction all blind, deaf, and hearing and sight handicapped children with their names, ages, residences, and post office addresses from the age of infancy to 21 who are so deaf or blind as to be unable to acquire an education in the public schools of the state, or so hearing or sight handicapped as to be handicapped from acquiring an education. Superintendents, public health officers of cities and counties, and all other public officials whose official duties include working with the deaf, blind, hearing, or sight handicapped are required to cooperate in obtaining a full report for the division. (*KSA 72-5301*)

To aid in estimating financial needs for the education of children requiring special education the secretary of each school district during the annual school census must file a report with the county superintendent each year in July on blanks prepared for that purpose by the state division listing the names, age, sex, post office address, and disability of every physically or mentally handicapped child of school age including the name and post office address of his parent or guardian and any other pertinent information. Copies of these reports will be sent by the county superintendent to the division of special education by August 1 of each year. The state department of public health when requested will furnish to the state division information obtained from birth certificates relevant to the name, address, and disability of any case of congenital deformity or physical defect. The state's crippled children service will from time to time furnish to the state division of special education the name, address, and disability of all children on their register. (*KSA 281.5*)

Screening: All school boards shall provide the basic vision screening tests without charge to all pupils at least once every two years. Tests may be performed by a teacher or other designated person. The results of the tests and, if necessary, the desirability of an examination by a qualified physician or optometrist shall be reported to the parents or guardians of the pupil. (*KSA 72-5377*)

Special Education Evaluation: Prior to placement in a special education class, exceptional children must be certified in accordance with requirements of the state division of special education with examinations provided by personnel certified by the state division. The results of any examination will be furnished to the teacher responsible for training the child. (*KSA 72-5340*)

Blind and visually handicapped children are referred as soon as they are identified to the division of special education by the chief administrator of each school district for evaluation. The division maintains a central file of all information concerning such children and arranges for the examination of blind or sight handicapped or visually impaired children by an educational clinical team. The team holds meetings at the state school for the blind or any other appropriate place or facility at regular and frequent intervals to evaluate the needs and capabilities of blind, sight handicapped, or visually impaired children.

Persons representing other related special areas may be requested by the team to furnish information and, if necessary, to meet with them. Upon completion of the examination, the educational clinical team prepares reports, stating in concise terms the needs and capabilities of the child and discusses these needs and capabilities in detail with the parents. The report is then submitted to a review board which makes the recommendations concerning the type of educational study or environment in which the child should be placed, taking into account all relevant factors including parental preference. The recommendations are then sent to the parents or legal guardians of the child and to the local school district. Upon request the recommendations may be sent to any judge in the district court or probate court considering the matter pertaining to the care, custody, welfare, or education of the child. The school district of residence of the child is obligated to pay the expense of transporting any student to meet with the educational clinical team. (*KSA 72-5368C*)

The educational clinical team is composed of two psychologists, one from the staff of the division of special education and one appointed by the board of regents from institutions under its jurisdiction; two educational consultants, one from the division of special education and the other from the state school for the blind; and a medical doctor appointed by the board of regents of the Kansas University Medical Center. (*KSA 72-5368D*)

The review board for placing sight and hearing handicapped children is composed of the superintendent of the state school for the blind, the director of the division of special education, one member appointed by the board of regents, one member appointed by the state superintendent of public instruction, and one member appointed by the governor. (*KSA 72-5368D*)

The procedure described for evaluating blind and sight handicapped children may also be followed to evaluate deaf and hearing handicapped children. The division of special education and the state department of public instruction will determine what children should be evaluated. If they determine that an evaluation is necessary then the format described for the blind and sight handicapped will be followed. (*KSA 72-5368H*)

All children requiring special education must be certified by school districts in accordance with the state division of special education requirements. School districts must examine children prior to certifying them eligible for services. Necessary examinations are prescribed by the state division of special education. The state superintendent of public instruction is responsible for the final decision in case of disagreement or appeal. The state superintendent may secure the advice of competent medical and educational authorities including the state department of health, the university hospitals, and the superintendent of the state tuberculosis sanitarium. (*KSA 281.7*)

ADMINISTRATIVE RESPONSIBILITY

Within the state department of public instruction is a division for special education to direct and supervise the program for exceptional children through the control of the state superintendent. The state division has the following powers and duties:

1. aiding school districts to organize special schools, classes, and instructional facilities for exceptional children and supervising the system of special education;
2. establishing standards for teachers and recommending certificates for teachers who qualify;
3. adopting rules and regulations for the establishment and maintenance of day classes, schools and home instruction and other methods;
4. prescribing curricula for special schools, special classes, and special instruction of exceptional children, including physical and psychological examinations and prescribing minimum requirements for exceptional children admitted to any schools, classes, or instruction;

5. initiating establishment of classes for exceptional children in convalescent homes in cooperation with the management of homes and hospitals in the local districts;

6. cooperating with school districts to arrange for exceptional children to attend school in districts other than those in their district of residence, and

7. cooperating with existing agencies such as the state department of social welfare, board of health, receiving home for children, institution for the education of the deaf, institution for the education of the blind, sanitorium for tubercular patients, crippled children's commission or other agencies concerned with the welfare and health of exceptional children, and coordinating their educational activities for exceptional children, investigating and studying the subject of special education, and finally making rules and regulations to carry out a special education program. (*KSA 72-5336*)

The board of directors of any school district or any county board of education with the state department of public instruction's approval may provide transportation and establish and organize one or more suitable special classes or provide instruction in the regular classes or in the home and may provide special facilities and equipment for special classes in special schools or home instruction as a part of the county school system for children requiring special education. If there are not enough children of any one type in a school district to warrant the establishment of a special class, the children may be instructed in any nearby school district by mutual agreement of the board of directors of the school district affected and by paying the regular tuition rate; the county board of education may establish the special classes in cooperation with the local board; or the county board with state department approval may prescribe the use of other aids to special education such as physical therapy, corrective gymnastics, rest periods, long lunches, social counselling, and vocational counselling and training. The board of directors of each school district or county board of education in each county providing the services shall employ qualified teachers certified by the authority provided by law as teachers for children requiring special education. (*KSA 281.4*)

The state board of social welfare, is responsible for the state school for the emotionally disturbed. (*KSA 76-1701B*)

The state schools for the mentally retarded are under the jurisdiction of the department of institutions. (*KSA 76-1407*)

The state school for the eduation for the deaf is under the supervision of the state board of education. (*KSA 76-1001a*)

The state school for the visually impaired is under the control of the state board of education. (*KSA 76-1101a*)

The state department of public instruction is responsible for determining if deaf or blind children should be educated in state or out-of-state facilities, schools, or institutions. The division of special education, with the approval of the state superintendent, is the agency responsible for cooperating with existing agencies such as the state department for social welfare, Kansas University Medical Center, state department of health, state school for the deaf, and state school for the blind to coordinate educational activities for blind and deaf children. (*KSA 72-5368B*)

PLANNING

A coordinating council for handicapped children is established to coordinate programs for all handicapped children under age 21. The council is responsible for maintaining a directory of services available for the handicapped in Kansas, distributing information to parents, doctors, and other persons concerning these services; initiating coordinated planning by and between agencies and departments, private associations, organizations, and corporations; maintaining records and information concerning handicapping conditions, and recommending to public and private agencies working with the handicapped need for additional services. The council's membership consists of the director of special education, a representative of the crippled children's commission, the director of the division of maternal and child health of the state department of health, the director of child welfare services of the state department of social welfare, the coordinator of children's services of the division of institutional management of the state department of social welfare, the director of the state division of vocational rehabilitation of the state department of social welfare, the director of the division of services for the blind of the state department of social welfare, the superintendent of the state school for the deaf, the principal of the state school for the visually handicapped, a representative of the Kansas University rehabilitation unit of the medical center, a representative of the Kansas Association for Mental Health, a representative of the Kansas Cerebral Palsy Association, a representative of the Kansas Association for Retarded Children and a representative of the Kansas Council for Children and Youth. By November 30 of each year, the council will submit a written report of its activities, studies, and proposals to the governor. Copies of the reports will also be given to all agencies and organizations having membership on the council and the proper committees of the legislature. (*KSA 74-6301-6*)

A coordinating council for the blind has the same purposes relating to the blind as the council for the handicapped has for all handicapped children. (*KSA 74-4801*)

FINANCE

In order to obtain reimbursement for programs for the developmentally disabled, districts must apply to the division of special education by the July 1 preceding the beginning of the school term for such reimbursement is sought. (*KSA 72-5345*)

A fund known as the state education reimbursement fund for developmentally disabled children is created within the state treasury to which all monies will be credited, appropriated, or transferred. The fund will be used to make the state's reimbursement to school districts maintaining classes for the developmentally disabled. (*KSA 72-5348*)

If the number of developmentally disabled children residing in a district and enrolled in a special class is less than the minimum size set by standards of the board, the class is not eligible for reimbursement unless the school district receives children from another school district in the state for enrollment and attendance in the class until the maximum has been reached, if the school district in which such a child resides applies to the district maintaining the class and agrees to pay the receiving school a tuition in the amount fixed by the governing body of the receiving school district. (*KSA 72-5349*)

Districts which have maintained classes for the developmentally disabled will receive one-half of actual expenditures made for purchasing special education aids and equipment used exclusively in teaching developmentally disabled children. The maximum additional reimbursements is $25 per child and $100 additional reimbursement for all full-time non-resident pupils enrolled in a special class and up to $800 per special class for non-resident pupils. After approval of the claim for district reimbursement by the state superintendent, funds will be drawn from the state education reimbursement fund for developmentally disabled children and paid to the county treasurer. The treasurer will then distribute same to the special education fund, if available, or to the county general fund. (*KSA 72-5350*)

The school districts may levy a tax not exceeding one mill on all taxable tangible property to create a fund to pay the cost of special education. (*KSA 72-5342*)

Districts providing services to the home-bound will be reimbursed in the following manner:

1. $3,000 for each full-time teacher of home-bound children with a full-time assignment approved by the division.
2. Part-time teachers will receive $2 a hour for one to five hours of personal instruction per week approved by the division.
3. Actual travel allowances paid by the school district employing the special teacher but not exceeding nine cents per mile or $75 per year per child and one-half of the district's expenditures for purchase or rental of special educational aids and equipment, but not exceeding a maximum additional reimbursement of $100 per child per year. (*KSA 72-5356*)

Districts conducting special education classes for exceptional children will receive reimbursement in the following manner:

1) $2,500 per year per special teacher, but no more than 15 units, will be reimbursed in any one congressional district, no more than four special teachers from any one school district; 2) $2,000 per year per special teacher for teachers in excess of 15 in any one congressional district or an excess of four in any one school district; 3) if more than one school is serviced by a special teacher, a travel allowance will be paid not exceeding nine cents per mile; 4) $100 for each full-time non-resident pupil in addition to the reimbursement approved by the division up to a maximum reimbursement of $2400 for cooperative regional programs, and 5) one-half of the actual expenditures made by the school district to purchase a rental of special education aids and equipment but not exceeding $100 per child per year. (*KSA 72-5362*)

Any school district or county board of education which has maintained an approved program of special education is entitled to receive reimbursement for the excess costs of instruction above the cost of the instruction of pupils in the regular curriculum of the district, or if the program of special education is established by the county board of education, the average cost of the instruction of the pupils in the participating districts is determined in the following manner: Cost of instruction of all pupils exclusive of those in special education is determined on a pupil basis, the excess of cost per pupil in special education shall be the difference between the cost per pupil of all children exclusive of those in special education and the cost per pupil in special education.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If there are not enough children of any one special type in the school district to establish a special class, the children may be instructed in any nearby school district in which classes have been established by agreement of the governing bodies of the school districts and payment of tuition. (*KSA 72-5337*)

Whenever exceptional children are given special instruction, the governing body of the district of residence of the children may pay the tuition at approved rates and cost of transporting the children to and from school, or in lieu of paying the cost of transportation may pay the cost of room and board. This does not prevent a district providing special education classes from furnishing transportation in its own school bus to such children without cost to the school district in which the children reside. Expenses incurred for transportation may be paid by the school district from its general fund. A district incurring transportation expenses at the approval of the division is entitled to reimbursement for one-half of the actual expenses up to a maximum reimbursement for transportation and maintenance of $250 per child. (*KSA 72-5364*)

School districts may enter into agreements with one or more other school districts for joint or cooperative programs for exceptional children and shall do so when suitable arrangements can be made offering programs which make available the facilities and personnel to be used for optimum public benefit. (*KSA 72-5361A*)

Boards of education and governing bodies of two or more school districts who enter into agreements to provide for cooperative programs may do so on a shared cost basis. The agreement may also provide for the establishment of an expenditure from a separate fund. All districts will remit their contract obligations to the fund. (*KSA 72-5361A*)

Governing bodies of school districts may provide special education programs for developmentally disabled children through cooperative agreement, if such agreements are approved. (*KSA 72-5345*)

SERVICES

" 'Special class' means a school, class or program: (1) established by a school district for special education of developmentally disabled children; (2) having enrollment that meets standards set by the state board; (3) for which a separate classroom is provided by the district; (3) for which full-time instruction is provided by a certified teacher with qualifications approved by the state board; and (5) having a curriculum, facilities, equipment and supervision which the director shall find sufficient for the purpose of giving adequate instruction to the pupils enrolled." (*KSA 72-5344*)

Local school districts surrounding the state school for the blind are required to cooperate in making facilities available to blind and sight handicapped children. The state school for the blind may enroll any blind or sight handicapped child for selective classes or on a full-time basis as day students in the public schools in the area surrounding the school. If the director of the state school for the blind decides such an enrollment will be beneficial, special training facilities of the school for the blind are made available to the blind and sight handicapped children in the area surrounding the state school for the blind if this does not interfere with the operation of the regular educational program of the local schools. (*KSA 72-5368G*)

The school district of residence of a child will pay all costs of transporting the child to and from the school attended, regardless of whether it is from the district of residence or the cost of room and board for the child at the place where the school attended is located. Districts who admit non-resident children may provide transportation or pay all or part of the cost of transporting the children. (*KSA 72-5351*)

"The governing body of any school district may prescribe the use of such other aids to special education as physical therapy, corrective gymnastics, rest periods, warm lunches, social counseling, and vocational counseling and training. The governing board of any body of any school district providing for exceptional children shall employ qualified teachers, certified by the authority provided by law as teachers for children receiving such special education." (*KSA 72-5337*)

The state department of public instruction may send children who are both deaf and blind or otherwise severely handicapped to any facility, school, or institution, within or without the state, to provide a qualified program of education for such children. The funds may be spent for evaluation, diagnosis, room, board, tuition, transportation, and any other necessary items. (*KSA 72-5368A*)

"Special instruction means instruction furnished by school districts for the special education of exceptional children and for which instruction or a special teacher approved by the division has been employed by sponsoring district to give such instruction." (*KSA 72-5360*)

Expenses incurred by districts for transportation may be paid by the school district from its general transportation fund or special education fund or from two or more of these funds. Districts providing approved transportation will be entitled to reimbursement from the state for one-half of the actual expenses but not exceeding a maximum reimbursement for transportation, or maintenance in lieu of transportation, of $250 per child per year. (*KSA 72-5351*)

PRIVATE

See Services for program for deaf-blind or otherwise severely handicapped children.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

KENTUCKY

RIGHT TO AN EDUCATION

Constitution: "The general assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state." (*Sec. 183, Ky. Const.*)

Compulsory Attendance Law: The board of education in the district of residence shall exempt from the compulsory attendance requirements every child of school age whose physical or mental condition prevents or renders inadvisable attendance at school or application to study. Before an exemption is granted, the board must receive evidence (in the form of a signed statement of a licensed physician or public health officer) that the condition of the child prevents or renders inadvisable attendance at school or application to study. (*Sec. 159.030 KRS*)

If school districts operate schools for the education of blind or deaf children, children between the ages of seven and 16 whose mental condition permits application to study will be enrolled in and attend school regularly for the full term or until discharged by the board of education. If no provision is made for the education of these children by their school district of residence, the superintendent of public instruction, on recommendation of the state director of pupil personnel services, may have the child enrolled in one of the state institutions for education. (*Sec. 159.050 KRS*)

Persons having custody or control of a deaf child between the ages of seven and 16 must have the child attend some public, private, or parochial school for hearing children or in which deaf children are taught for the full term each year, unless the child is being given approved instruction at home. If the child's physical or mental condition is such that he could not profit from school, he is exempt from the compulsory attendance requirements for the deaf. (*Sec. 167.090 and 167.100 KRS*)

If the schools in the state providing education for the deaf are taxed to capacity and there is no other means of providing appropriate services, deaf children will be exempt from the compulsory requirements. (*Sec. 167.120 KRS*)

Responsibilities: If parents of as many as eight trainable mentally handicapped children living in a school district wish to have special education classes established, school boards of any school district shall establish such classes in accordance with state board requirements. School boards of any school district may establish and maintain special education programs for exceptional children who reside in their districts. (*Sec. 157.230 KRS*)

By July 1, 1974, all county and independent boards of education must operate special education programs to the extent required by the plan approved by the state board of education, considering the recommendations for the state task force, and the human resources coordinating commission council. If any county or independent board of education fails to operate and implement special education programs in accordance with the plan, the application of the county and independent board of education for minimum foundation payments may be considered insufficient. (*Sec. 157.224 KRS*)

POPULATION

Definitions: " 'Exceptional children' means children who differ in one or more respects from average or normal children in physical, mental, emotional, or social characteristics and in ability in such a degree that it is impracticable or impossible for them to benefit from or participate in, the regular or usual facilities or classroom programs of the public schools in the district in which they reside. These children's educational needs require a modification of the usual classroom program and in order for them to attain the maximum abilities and capabilities. These children include, but are not limited to, those children hereafter described in Section 157.200 as well as the neurologically impaired, the intellectually gifted, the emotionally disturbed, the functionally retarded, children with learning disabilities, communication disorders and those children who are multiply handicapped.

" 'Physically handicapped children' means children, other than those with a speech defect, of sound mind, who suffer from any physical disability, making it impracticable or impossible for them to benefit from, or participate in a normal classroom program of the public school in the school district in which they reside and whose intellectual development is such that they are capable of being educated through a modified educational program.

" 'Speech defective children' means children, whose speech has been diagnosed by a speech correctionist as deviating or different from average or normal speech, to the extent of hindering adequate communication and requiring specialized instruction for improvement or correction of the handicapped.

" 'Educable mentally handicapped children' means children, who because of retarded intellectual development, as determined by recognized standardized tests are incapable of being educated profitably and efficiently through ordinary classroom instruction, but whose intellectual ability, would indicate a degree of scholastic attainment with the benefit of special educational methods, materials and facilities.

" 'Trainable mentally handicapped children' are mentally handicapped children, who, because of retarded intellectual development, are incapable of being educated properly and efficiently through ordinary classroom instruction, or special education facilities for educable mentally handicapped children, but who may be expected to benefit from training in a group setting in trying to further their social adjustment and economic usefulness.

" 'Children with learning disabilities' are those children who have a disorder in one or more basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. Such terms do not include children who have learning problems, which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, emotional disturbance or environmental disadvantage." *(Sec. 157.200 KRS)*

Age of Eligibility: Exceptional children may receive services from birth through age 21. *(Sec. 157.200 KRS)*

IDENTIFICATION AND PLACEMENT

Census: The director of pupil personnel services in each school district is required to annually discover all children within his district who are handicapped and report their names to the department of education on forms provided by the department. *(Sec. 157.260 KRS)*

Special Education Evaluation: The superintendent of public instruction is authorized to employ two additional supervisors for the purposes of testing and classifying the mentally retarded. *(Sec. 157.295 KRS)*

Speech handicapped children may be diagnosed by a speech correctionist as deviating or different from average or normal speech. *(Sec. 157.200 KRS)*

Educable and trainable mentally handicapped children are to be determined by recognized tests as those having retarded intellectual development. *(Sec. 157.200 KRS)*

The director of special education, with the approval of the superintendent of public instruction, will prescribe the rules and regulations and tests for determining eligibility of educable and trainable mentally retarded children for special education placement. Questionable cases will be determined by the director of special education after adequate examination and consideration of specific case histories. *(Sec. 157.240 KRS)*

Physically handicapped children before entering into special classes must be certified by competent and appropriate authority as approved by the state superintendent of public instruction. *(Sec. 157.240 KRS)*

ADMINISTRATIVE RESPONSIBILITY

The department of education is the agency for cooperation with state and federally approved treatment centers and local schools of Kentucky for carrying out the provisions for special children. *(Sec. 157.220 KRS)*

A bureau of education for exceptional children in the state department supervises and directs the state program for exceptional children. Within the bureau the state board must establish appropriate divisions including, but not limited to, the following six: learning disabilities, communication disorders, mental retardation, physically handicapped, intellectually gifted, and emotionally disturbed. *(Sec. 157.221 KRS)*

The superintendent will appoint an assistant superintendent of public instruction and any necessary superintendents to staff the bureau. The assistant superintendent must have a master's degree in education, with an emphasis in one or more areas of exceptionality and supervisory experience in special education. *(Sec. 157.221 KRS)*

The bureau will recommend rules and regulations to the state board for adoption. The state board of education will make necessary rules and regulations for the proper administration of the special education program including, but not limited to, the establishment of classes, eligibility and admission of pupils, curriculum, class size limitations, housing, special equipment, and instructional supplies. (*Sec. 157.220 KRS*)

In addition to the two supervisors hired by the superintendent for testing and classifying the mentally retarded, he shall employ two supervisors to administer all other programs for exceptional children. (*Sec. 157.295 KRS*)

The schools for the blind and deaf are under the supervision of the state board of education. (*Sec. 167.150 and 156.010 KRS*)

The department of mental health administers the state institutions for the mentally retarded and emotionally disturbed.

PLANNING

The governor, upon recommendation of the human resources coordinating council, appoints one person involved in the training of exceptional children, one person from the department of education, and nine other citizens to the state task force. No more than five professional special educators may be on the task force. Non-profit organizations with statewide membership and whose purposes include the fostering of programs for the handicapped may submit recommendations to the council. Representatives from each department on the human resources coordinating commission and the medical director of the commission for handicapped children shall serve in an advisory capacity to the task force.

The powers and duties of the task force include:

1. surveying needs and available resources for special education training and related services for exceptional children;
2. recommending regulations to the department of education and other departments dealing with exceptional children;
3. employing independent professional organizations and staff for services not readily available;
4. fixing the terms of service of members of regional task forces;
5. receiving and evaluating reports of regional task forces, and making and receiving recommendations to and from regional task forces and regional councils;
6. assuming the powers and responsibilities of any regional task force which, in the judgment of the state task force, cannot or will not fulfill its functions, powers, or responsibilities, and
7. making recommendations to the council, to school boards, to governmental agencies, to the legislative research commission, and to the legislature with respect to special education programs and related services for exceptional children. Such recommendations may relate to, without limitation, the recruitment and training of, and assistance to, teachers in special education facilities, the transportation of special education students, and the establishment of special education facilities within the time limitations imposed by the act.

Regional task forces, appointed by regional human resources councils, will be established to assist the state task force in ascertaining needs, evaluating resources, and recommending plans for statewide programs for exceptional children.

By July 1, 1971, each regional task force had to submit a plan for the implementation of special education programs and coordinated services for exceptional children through the regional human resources council to the state task force.If one or more regional task forces failed to submit their plan, the state task force was to prepare a plan and submit it to the regional human resources council and the state council. By December 1, 1971, the task force shall submit its final reports and recommendations to the human resources coordinating commission, and the council, in turn, submits the report to the governor, state board of education, and the legislative research commission. (*Sec. 157.222 KRS*)

FINANCE

One classroom unit shall be included upon the employment of each teacher approved to instruct exceptional children in accordance with the provisions of law and state board regulations. (*Sec. 157.360(5) KRS*)

One classroom unit will be included for each approved teacher. (*Sec. 157.360 KRS*)

Physically handicapped children may receive instruction in their home, in a hospital, or at a sanatorium. A minimum of two visits a week with a minimum of one hour of instruction per visit will be considered as equivalent to the attendance of one child five days in school. (*Sec. 157.270 KRS*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If an insufficient number of exceptional children of one classification live within a district or if a school district does not provide a special education program, the board shall contract with another county or district maintaining an approved special program for that type of child. If a district undertakes to provide special education services in its classes for nonresident students, the district of residence will share the total cost of special education programs in proportion to the number of pupils or in accordance with contract agreements between the two districts. The district of the child's residence will pay for transportation, not exceeding $300, to the class in another school district, unless the board of the other district provides transportation to the class. In this case the cost of transportation will be included in the total cost of the special education facility. (*Sec. 157.280 KRS*)

SERVICES

" 'Special educational facilities' means special schools, special classes, special instruction. All special education facilities shall be under the supervision of the superintendent of public instruction." (*Sec. 157.200 KRS*)

" 'Related services' means those educational services for the exceptional child and his family that ordinarily cannot be delivered through the public educational system." (*Sec. 157.200 KRS*)

Persons employed to teach in any special education program must have any special training that might be required by the state board of education. (*Sec. 157.250 KRS*)

If any physically handicapped children, even with the aid of transportation, are unable to attend special education classes in a public school, instruction may be provided in the child's home or in a sanitorium. (*Sec. 157.270 KRS*)

The state department of education is authorized to spend available funds to send deaf-blind children to any facility, school, or institution within or without the state which provides a qualified program of education for these children. The funds may be expended for evaluation and diagnosis, room, board, tuition, transportation, and any other items relevant to the education of deaf-blind children. Under this section, deaf-blind children include those whose combination deafness and blindness prevents them from profiting satisfactorily from educational programs provided either, for the blind child or for the deaf child. The division of special education within the state department is responsible for determining what type of facility would be best to meet the needs of deaf-blind children and shall also cooperate with agencies, such as the Kentucky School for the Deaf and the Kentucky School for the Blind, to coordinate their educational activities for deaf-blind children. (*Sec. 167-210-167.240 KRS*)

Necessary transportation may be provided to handicapped children regardless of the distance they live from school. (*Sec. 157.370 KRS*)

PRIVATE

See Services.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

LOUISIANA

RIGHT TO AN EDUCATION

Constitution: "The educational system of the state shall consist of all free public schools and all institutions of higher learning, supported in whole or in part by appropriation of public funds. . . ." (*Art. XII, Sec. 7, La. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements.

Children who are mentally, physically, or emotionally incapable of performing school duties and children unable to profit from further school experience are exempt from these requirements. These exemptions must be certified in writing by a psychiatrist, psychologist, recognized evaluation center, clinic, or other professionally qualified person or agency designated by a parish or city school board. (*LRS 17:221-226*)

Every parent, tutor, or person having control of a mentally or physically deficient child must enforce his attendance at a special school or class if the programs have been provided by a state, parish, or city school board. This provision applies to blind, deaf, and spastic children when the special schools have available space and facilities for their training and when they meet the entrance requirements. (*LRS 17:234*)

Policy: "It is hereby declared to be the public policy of the state of Louisiana to develop, encourage, and improve special education and training facilities, services, and classes for crippled, mentally handicapped, and other exceptional children in the public schools in Louisiana in order to minimize in so far as possible the educational or training limitations which result from such handicapping conditions." (*LRS 17:1941*)

Responsibilities: Parish and city school boards shall maintain special education and/or training facilities or classes for one or more groups of handicapped children when at least 10 of any one type of children may be reasonably brought together and when an approved teacher and facility are available. If there are between five and 10 children, parish and city school boards are urged to provide special educational services.

If there are more than five children with any type of handicap or other exceptionalities, the parents or guardians of such children may petition the parish or city board of education to provide special educational services. (*LRS 17:1951*)

POPULATION

Definitions: " 'Physically handicapped and mentally handicapped and other exceptional children' means slow learning, educable and trainable mentally retarded; deaf or hard of hearing; speech impaired; blind or partially sighted; emotionally disturbed, cerebral palsied; gifted; children with learning disabilities; crippled, or other health impaired children who by reason thereof require special educational and/or training services and facilities and who have been so diagnosed and recommended by special education centers located in the state colleges and universities or other competent authorities designated by the state department of education pursuant to the rules and regulations of the state board of education."

Age of Eligibility: Children are eligible for special education between ages three and 21. (*LRS 17:1943. See also 17:1944*)

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: All state agencies offering services to handicapped and other exceptional children must provide to parish and city school boards and/or the state department of education names and other pertinent facts regarding the proper placement for handicapped or other exceptional children enrolled in or expected to enroll in the public schools. (*LRS 17:1942*)

Special education centers located in state colleges and universities are designated as the competent authorities for evaluation of handicapped and other exceptional children in the public schools. If a parish or city school system is served by one or more special education centers, the centers are designated as the authorities for the psychological and educational diagnosis and evaluation of handicapped and other exceptional children.

Pupils may be assigned to special classes only upon recommendation of these special education centers or other persons or agencies approved by the state department. In parish or city school systems not served by a college or university special education center, pupils may be assigned to special classes or facilities upon the recommendation of authorities approved by the state department. (*LRS Sec. 17:1950*)

ADMINISTRATIVE RESPONSIBILITY

The state department of education, with the approval of the state board of education, administers special education programs. The state board of education establishes the necessary rules and regulations, prescribes standards, and approves the conditions under which the facilities are approved for state aid. The state superintendent of education administers the state board regulations. (*LRS Sec. 17:1948*)

The state department of hospitals administers institutions for the mentally retarded and mentally ill. (*LRS Sec. 28:22 and 40:2013.40*)

The state department of hospitals is also responsible for making the rules and regulations for the program providing services in private facilities. These regulations must include standards for determining the following:

1. the extent and nature of handicaps and conditions included in the program;
2. the probability that a child in the program will benefit or respond to special services;
3. that a proposed school or facility offers special services which are adequate to the needs of the child in the program;
4. that the special services needed by the child can only be provided by the unique services available in a particular residential facility, and
5. that the required special services cannot be provided by a community day care or out-patient facility geographically accessible to the child or by state maintained and operated residential facilities. (*LRS Sec. 40:2125*)

PLANNING

A 10-member commission on the mentally and physically handicapped is composed of the director of the state library for the blind and physically handicapped, the commissioner of the mental retardation division of the department of hospitals, the director of the department of health, the commissioner of welfare, the director of special education of the state department of education, three members from the House of Representatives chosen by the speaker, and two members of the Senate chosen by the president.

The commission is charged with the responsibility of coordinating existing programs in the areas of the mentally and physically handicapped and exploring the possibility of consolidation of these programs. In doing so, the commission will work with groups such as the mental retardation planning council and others in an effort to give them assistance and to receive counsel for the implementation of their own plans and recommendations. (*LRS Sec. 40:2013.55-58*)

FINANCE

All parish and city school board budgets may include salaries, according to the official Louisiana salary schedule, for qualified special education teachers and therapists involved in the teaching and/or training of any one type of "handicapped or other exceptional child." The allotment of teachers is based on the following minimum/maximum pupils per teacher or therapist:

1. Slow learner – one teacher per 12 to 18 pupils;
2. Educable mentally retarded – one teacher per 10 to 15 pupils;
3. Trainable mentally retarded – one teacher per eight to 12 pupils;
4. Deaf or hard of hearing – one teacher per eight to 10 pupils;
5. Blind or partially sighted – one teacher per eight to 10 pupils;
6. Speech impaired – one therapist per 100 pupils;

7. Cerebral palsied – one teacher per eight to 10 pupils;
8. Emotionally disturbed – one teacher per eight to 10 pupils, and
9. Others as determined by the regulations of the state board of education.

If there are fewer than the minimum number of pupils per teacher, but not fewer than five, the state allotment is reduced one-tenth for each pupil less than the minimum. (*LRS Sec. 17:1946*)

Parish and state school agencies are authorized to cooperate with other public and private agencies interested in working for the education and training or evaluation of handicapped and other exceptional children. Parish and state school agencies are authorized to accept gifts or donations or other aid from these private agencies. (*LRS Sec. 17:1948*)

Certified teachers of exceptional children employed in the public schools are paid an amount equal to their base pay plus an additional 10 percent. (*LRS Sec. 17:427*)

FINANCE

Senate and House concurrent resolutions note that Department of Health, Education, and Welfare figures show 272,706 handicapped children in Louisiana with 90% of these children receiving no type of treatment or special education. Some 618 handicapped children receive aid through the state's exceptional children's program and 2181 on the waiting list as of May 3, 1971; of 28,000 emotionally disturbed children, 165 are receiving aid. Fees have increased as much as $100 a month in some treatment facilities. The future of handicapped and emotionally disturbed children is of grave importance to the state, and both the future and the productivity of these children are enhanced through programs such as those supported by the exceptional children's act. The legislature resolved that it go on record as favoring assistance to handicapped and emotionally disturbed children at all times to the fullest extent of available funds and supports the concept that budget requests for program assistance to these children should be met. The Senate resolution went further, noting that the fiscal 1971-72 budget does not allow for extension of existing programs or the development of new programs and will allow for the placement of children only as vacancies occur or placement of approximately five children per month. Because a budget cut of $128,000 was made in the approved budget for 1971-72, the Senate resolved that the legislature go on record as favoring assistance to handicapped and emotionally disturbed children as available funds permit and support the concept that budget requests for programs of assistance to these children should be met. (Senate Concurrent Resolution 62 and House Concurrent Resolution #458.)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Statutes contain no specific provisions for the handicapped in this area.

SERVICES

No person, without a valid degree or certificate and without the special training the state superintendent may require, may be employed as a director, supervisor, therapist, or teacher of any special class or school. (*LRS Sec. 17:1947*)

The state department of hospitals may establish schools for the diagnosis, care, treatment, education, and rehabilitation of retarded persons. Eligible children include those whose physical, emotional, mental, or neurological condition so deviates from the normal that they cannot, without special therapy, training, education, or protective care, satisfactorily participate in community living. (*LRS Sec. 40:2013-2123*)

These schools are authorized to conduct research and training activities in the mental health field and to operate outpatient clinics and day care programs for persons whose condition does not require fulltime institutional care and treatment. (*LRS Sec. 40:2013*)

The state department of hospitals also administers an institution for the diagnosis, care, treatment, education, and rehabilitation of the mentally defective, epileptic, and other persons in need of care, treatment, education, and rehabilitation. This institution is known as the Pine Crest State School. The department may conduct research and training activities in the mental health field at this school, as well as operate clinics and day care programs for persons whose condition does not require full institutional care and treatment. (*LRS Sec. 28:22*)

The House of Representatives passed a resolution urging and requesting local school boards to continue operating all special education classes in the various school buildings in which they are presently located; further requesting the school boards to provide the necessary attention, personnel, and facilities to continue the classes where federal funds are discontinued; and requesting all local boards to insure that all classrooms and other facilities designed and/or equipped to be used as special education classrooms in existing or newly designed buildings not be used for any other purpose. Further, special education classes have been instituted in several parish school systems throughout the state under various federally sponsored programs. These classes were instituted to meet a pressing need to assist the parents of handicapped children to resolve the many difficulties inherent in the education and training for life which these children face in every day living. It is reasonable to assume that the federal government intended the local school systems to continue these worthwhile and necessary services or the classes would not have been organized; it is further the obligation of local school boards to provide for these services or such classes would not have been organized. Further, it is the obligation of local school boards to provide for the education of every child regardless of his special requirements if he is educable. All citizens regardless of their economic or cultural deprivation are entitled to a minimal state supported education for their children including those children with special educational needs. Because state law and state and local regulations provide for financial support for teachers of all educable children and physical facilities in most cases have already been provided through federal funds, the House of Representatives with the Senate concurring resolved "that all local school boards of this state are hereby requested to continue in operation, in the various school buildings in which these classes are presently located, all Special Education classes." They further resolved "that such local school boards are requested to provide the necessary attention, personnel and facilities to continue such classes and hereby to continue the learning process of the students presently enrolled in such classes when federal financial support is discontinued from said classes." And "all local school boards are requested to continue to use classrooms and other facilities which have been designed for use by Special Education Students for such purposes only." (House Concurrent Resolution No. 480, Louisiana)

PRIVATE

If it is not feasible for parish or city school boards to establish public school classes for the handicapped, the state department of education may pay tuition charges in an approved private school or facility within the state. In order to be eligible for private services, a child must be eligible to enroll in an appropriate public special education class or facility if it were available in his city of residence. The state department of education assumes a tuition cost per pupil in private schools or facilities, not exceeding $60 per month for a nine month school year for residential pupils, and $40 per month for nine months for day pupils. (*LRS Sec. 17:1945*)

All persons, institutions, schools, or organizations engaged in the care and training of the mentally retarded must apply to the department of institutions for a license to operate programs. (*LRS Sec. 28:652*)

No license is granted until a representative of the department of institutions has visited and inspected the facility in order to assure that departmental standards have been met. (*LRS Sec. 28:564*)

Financial assistance may be provided to the parent or guardian of an exceptional child for the cost of room, board, training and/or therapy in a private residential facility for exceptional children if an appropriate state owned and operated facility is unavailable. (*LRS Sec. 17:1945 and 40:2122*)

When the department of hospitals provides financial assistance for residential care of an exceptional child, the parent or guardian is required to contribute to the costs on a sliding scale basis established by the department, which uses as its primary base the total taxable income reported for federal tax purposes from the preceding year. Assistance in defraying the cost of residential care is made only to supplement the basic parent or guardian support plus amounts and benefits available to the exceptional child or his parents or guardians from other sources. Other such sources include social security, veterans administration, private insurance, state board of health, state department of education (including special education and/or vocational rehabilitation), and department of public welfare funds. (*LRS Sec. 40:2126*)

PERSONNEL

All funds received from fees paid by or in behalf of patients in state hospitals are deposited in a special account in the state treasury known as "the research and training account." Funds in this account are used by the state department of hospitals to conduct research in problems relating to mental illness and mental retardation and for training programs for psychiatrists, neurologists, special educators, psychologists, nurses, technicians, social workers, occupational therapists, medical students, interns, residents, physicians, and professional trainees. Such training programs are to be designed to better qualify personnel for employment in state institutions and clinics for the mentally ill and mentally retarded as well as in hospitals owned and operated by the state. (*LRS Sec. 40:2113.1*)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

MAINE

RIGHT TO AN EDUCATION

Constitution: "The Legislatures are authorized, and it shall be their duty to require the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools. . . ." (*Art. VIII, Me. Const.*)

Compulsory Attendance Law: Children between the ages of five and 17 are subject to the compulsory attendance requirements. If a child is immature or cannot benefit from school attendance, the lower limit may be extended to seven. The law does not apply to a child with "subnormal mental capacity." A child whose physical or mental condition makes school attendance inexpedient may be excluded by the governing body of the administrative unit.

If a child between the ages of 15 and 17 is unable to pass the tests for a work permit because of subnormal mental capacity, he may receive a permit for employment in non-hazardous occupations under regulations of the commissioners of education and labor and industry. (*RSM Sec. 911*)

Policy: "It is declared to be the policy of the state to provide, within practical limits, equal educational opportunities for all children in Maine able to benefit from an instructional program approved by the state board. The purpose of this chapter is to provide educational facilities, services, and equipment for all handicapped or exceptional children below 20 years of age who cannot be adequately taught with safety and benefit in the regular public school classes of normal children, or who can attend regular classes beneficially if special services are provided. (*RSM Sec. 3111*)

Responsibilities: A class for handicapped or exceptional children may be established in any public school or under any other plan, provided that it adheres to the regulations for admission, teacher preparation, instruction, necessary facilities, and supervision.

In administrative units where there are too few handicapped or exceptional children to make the organization of special classes feasible, these children may be entered into a special class in another administrative unit. (*RSM Sec. 3117*)

All administrative units are responsible for appropriating sufficient funds to provide for the education of handicapped or exceptional children. (*RSM Sec. 3116*)

POPULATION

Definitions: " 'Handicapped or exceptional child' shall mean any child under 20 years of age able to benefit from an instructional program approved by the state board whose parents or guardian maintains a home for his family in any administrative unit within the state, and whose educational needs cannot be adequately provided for through the usual facilities and services of the public schools, because of the physical or mental deviation of such child." (*RSM Sec. 3112*)

Age of Eligibility: Children may receive services from age five to 20. Speech handicapped children may begin receiving services at birth. (*RSM Sec. 3112*)

IDENTIFICATION AND PLACEMENT

Screening: Every child in the public schools shall be tested and examined during every school year to see whether he is suffering from defective sight, hearing or any other disability or defect which prevents his receiving the full benefit of school work or requiring a modification of school work to prevent injury to the child and/or to secure the best educational results. Parents or guardians will be sent notice of any defects or disabilities. A record for each child will be kept in a form prescribed by the commissioner after consultation with the department of health and welfare. (*RSM Sec. 1135*)

No juvenile offender between the ages of 11 and 17 who is deaf, mute, blind, or who is a fit subject for one of the state hospitals for the mentally retarded or the mentally ill will be committed to the boys' or girls' training center. (*RSM Sec. 2714*)

ADMINISTRATIVE RESPONSIBILITY

The commissioner of education is responsible for the general supervision of education of all children of school age in this state including handicapped or exceptional children. A director of special education and other qualified personnel necessary for consultant services will be employed by the commissioner to develop, inspect, approve, and supervise a program in special education for handicapped and exceptional children. The commissioner, with the approval of the state board, will make the necessary rules and regulations for the administration of the special education program. The state department of education is the designated agency to cooperate with the federal government regarding any program for the education of handicapped or exceptional children. (*RSM Sec. 3113*)

The Pineland Hospital and Training Center is under the direction of its superintendent, who must be a hospital administrator or social worker. He is responsible for the training, education, treatment, and care of all persons at the hospital. (*RSM Sec. 2151*)

The department of mental health and correction oversees the Governor Baxter School of the Deaf, including the employment of the teachers and prescribing the system of education and course of study. (*RSM Sec. 2903*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

If a handicapped or exceptional child is enrolled in a district other than his district of residence or in a private school, the sending unit will pay the actual per pupil cost incurred in the operation of the program for handicapped or exceptional children during the preceding school year. The per pupil tuition charge will be computed on the basis of financial reports filed by the administrative unit or the private school. The financial reports must be filed by July 1 of each year on forms provided by the state board of education. The allowable tuition charge cannot exceed the per pupil operating cost determined by the state board from the financial report of the preceding year. (*RSM Sec. 3117*)

An administrative unit operating a class or school for handicapped or exceptional children may compute its annual tuition rate in the following manner:

Increase the salary paid special education teachers by 35 percent to compensate for costs not included in salaries. Divide the resulting amount by the average daily membership of students in special education classes for the same fiscal year. The per pupil cost thus determined will become the legal tuition charge for the following year.

Any administrative unit establishing a new special education program may charge a tuition rate not exceeding the average state per pupil cost of special education classes in the previous year. (*RSM Sec. 3116*)

No parents of children who are sent to the Perkins Institute and the Massachusetts School for the Blind at Watertown, Mass., will be discriminated against on account of the wealth or poverty of the family. All sums necessary for the support and instruction of the pupils at the institution, including all traveling expenses of the pupils, shall be paid by the state. (*RSM Sec. 3502*)

For each child from the district attending the Governor Baxter State School for the Deaf, local administrative units must contribute an amount equal to the per capita cost of instruction and equipment in a public elementary school for a normal child. (*RSM Sec. 2906*)

In order to equalize educational opportunity and to assist administrative units in providing adequate educational programs for all pupils, state aid will be distributed through an equalization formula. It is the intent of the legislature that at least one-third of the average per pupil operating cost for all public schools in the state be paid by the equalization formula. Operating cost includes all expenditures except transportation, community services, capital outlay items, and debt service reduced by tuition receipts. In addition to money distributed under the equalization formula, units will be reimbursed on a percentage of their expenditures for transportation, boarding, school bus purchases, and the education of handicapped pupils. *(RSM Sec. 3731)*

Expenditures made for the handicapped in excess of expenses for regular school children will be reimbursed in accordance with Table I. The commissioner will establish the applicable percentage for each eligible unit for per pupil valuation on the January 1 of the year the legislature convenes in regular session. The percentage determined will be applicable for the next two fiscal years: "Table I—The percentage of state aid to each municipality shall be determined by dividing the median state per pupil valuation by the state per pupil valuation of the municipality and multiplying the result by 75 percent. No administrative unit may qualify for more than 97 percent nor less than 13 percent."

Each administrative unit is reimbursed a percentage of its actual expenditures. (*RSM Sec. 3732*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If no programs are available in the district of residence, a child may receive services in another administrative unit on a tuition basis. (*RSM Sec. 3117*) See Finance.

SERVICES

" 'Special services' shall be transportation, tutoring, corrective teaching such as speech reading, speech correction, sight conservation, and similar forms of instruction; and provision of special seats, books and teaching supplies and equipment required for the instruction of handicapped and/or exceptional children." (*RSM Sec. 3112*)

Handicapped or exceptional children may attend, with the approval of the commissioner, special schools such as the Maine School for the Deaf, Pownal State School, and Perkins School for the Blind in Watertown, Mass., or any other schools or institutions designated by the commissioner.

Education at either the elementary or secondary level for handicapped or exceptional children through home instruction, hospital instruction, or special services may also be approved. (*RSM Sec. 3114*)

The superintendent of schools shall provide transportation for special education students to and from classes regardless of whether these classes are conducted by a public or private school or within or without the administrative unit, if the district of residence does not provide the necessary services. (*RSM Sec. 3561*)

Pineland Hospital and Training Center is maintained for the training, education, treatment, and care of persons who are mentally retarded and persons between the ages of six and 16 who are mentally ill. (*RSM Sec. 2151*)

Every parent, guardian, or other person having control of any mentally normal child between the ages of six and 18 (who is too deaf to be materially benefited by the methods of instruction taught in the public schools not receiving a comparable education) shall be required to send the child to the Governor Baxter State school for the Deaf during the school year. The child must attend the school until he is discharged by the superintendent with the approval of the department of mental health and corrections. (*RSM Sec. 2905*)

Children may be admitted to Governor Baxter State School for the Deaf at age of two and continue at the school for a period not exceeding 16 years. (*RSM Sec. 2904*)

PRIVATE

If special services for handicapped or exceptional children are not provided within the district of residence, children may be sent with the approval of the commissioner to private schools both in and out of the state. (*RSM Sec. 3114*) See Services and Finance.

PERSONNEL

The commissioner is responsible for seeing that suitable provision is made for the education of teachers and school administrators to meet the educational needs of handicapped or exceptional children. When funds are available, he will provide, at one or more of the teachers colleges, classes of instruction in special services for handicapped or exceptional children in order to provide the necessary practical training and the demonstrations necessary. (*RSM Sec. 3119*)

Any administrative unit may appropriate money for the education of teachers and other school personnel to meet the educational needs of the mentally retarded children. These funds will be expended on a matching basis with funds made available by the department of education. The teachers and other school personnel trained with these funds will be reimbursed through matching departmental funds. Training under this section must be approved in advance by the commissioner. (*RSM Sec. 3161*)

FACILITIES

County commissioners may spend county funds for construction or acquisition of buildings for housing approved educational programs for retarded children. If the buildings, thus constructed or acquired with county funds, are not used for operating programs for the mentally retarded, the buildings will revert to the county. This section does not allow the county to actually operate the educational programs. (*RSM Sec. 3162*)

MARYLAND

RIGHT TO AN EDUCATION

Constitution: "The General Assembly, at its first session after the adoption of this constitution, shall, by law, establish throughout the state a thorough and efficient system of free public schools; and shall provide by taxation, or otherwise for their maintenance. (Art. VIII, Sec. 1, Md. Const.)

Compulsory Attendance Law: All children between the ages of seven and 16 will attend some day school regularly during the school year. This provision does not apply to a child who is mentally or physically handicapped and who is receiving special instruction, if expedient or practical, at home or in a private school. It is within the discretion of the superintendent of schools of a particular county or Baltimore City, acting with the advice of the school principal, supervisor, pupil personnel director, or visiting teacher, to permit any pupil to withdraw who has reached age 14 and who, in their judgment, can no longer profit from further continuance in school. Attendance and withdrawal of mentally and physically handicapped children are at the discretion of the superintendent of schools of the particular county or Baltimore City, acting with the advice of the school principal and the supervisor of special education. All persons having under their control a child between seven and 16 will have the child attend school or receive instruction required in this section. (*Sec. 77-231 Md. Stats.*)

All deaf or blind children, who are between the ages of six and 18 and who because of partial or total blindness are unable to receive an education in the ordinary public schools, must attend school or classes for the deaf or blind for eight months during the scholastic year, unless it can be shown that the child is receiving regular formal instruction during the same period in studies usually taught in the public schools to children of the same age. The superintendent or the principal of any school for the deaf or school for the blind or any persons they authorize may excuse cases of necessary absence of enrolled pupils. This section does not apply if the child's physical condition renders his instruction inexpedient or impracticable. (*Sec. 108 Md. Stats.*)

All children between the ages of 6 and 16 must attend some public schools regularly during the entire period of each school year. It must be shown that the child is also receiving regular, fair instruction. The superintendent or principal of any school or duly authorized person may excuse necessary absence among enrolled pupils. The provisions of this section shall apply to any child having a mental, emotional, or physical handicap, and who under the Bylaws, rules and regulations of the state board is educable and can qualify for special instruction, but these provisions shall not apply to a child whose mental, emotional, or physical condition renders his instruction detrimental to his progress. Nor shall it apply to a child whose presence in school constitutes a danger of serious physical harm to others. In any such instance, it is the discretion of the local superintendent acting with the advice of the school principal, supervisor, pupil personnel supervisor, or visiting teacher, and with the written recommendation of a licensed physician or certified psychologist, to permit the withdrawal of any pupil to whom the judgment of such persons both provisions apply. Withdrawal, as pertaining to mentally, emotionally or physically handicapped children, is not construed so as to exclude permanently the return of any child whose condition is improved to the degree that his attendance in the public school is no longer detrimental to his progress. Neither shall these conditions be construed to exclude permanently any child whose presence in school no longer constitutes a danger of serious physical harm to others. If a child is withdrawn from the public schools, the local board shall make other appropriate provisions for the child's education. If none is immediately available, the county board or Baltimore City board is responsible for making interim provisions for the child's education until an appropriate place becomes available. Persons having control of any child between 6 and 16 must have the child attend school or receive instruction. Nothing in this provision shall be construed to require school attendance of any child legally withdrawn before July, 1969." (*Section 77-92, Md. Stats.*)

Responsibilities: The local boards shall provide or arrange for appropriate facilities and services for all identified handicapped children. (*Sec. 103 Md. Stats.*)

POPULATION

Definitions: Handicapped children are defined as "those children with 'mental, physical or emotional handicaps'."

Age of Eligibility: Children may receive services from ages six to 18. See Services.

IDENTIFICATION AND PLACEMENT

Census: County boards of education, and the board of school commissioners of Baltimore City may conduct, under the direction of the county superintendent or the superintendent of public instruction of Baltimore City, a school census of handicapped children under 18 years of age including preschool handicapped children. All information collected under this section will be reported to the state board of health. (*Sec. 57 Md. Stats.*)

All boards of education in the county schools and Baltimore City are to furnish to the respective health departments, any information relative to children with physical, mental and/or emotional handicaps living within their school system. The health department will record such children needing additional diagnostic or treatment services and will refer the children to the boards of education for evaluation. (*Sec. 99 Md. Stats.*)

Screening: The boards of county school commissioners who have appointed a school physician will have the vision and hearing of every child attending the public schools tested at least once every two years. To secure the best educational results, the board will also check for any other physical disability which would require a modification of school work in order to prevent injury to the child. (*Sec. 77-138 Md. Stats.*)

Notice of any disease or defects will be given to the parent or guardian of the child along with advice relating to treatment. (*Sec. 77-139 Md. Stats.*)

ADMINISTRATIVE RESPONSIBILITY

The Maryland School for the Deaf and the school for the blind are responsible for keeping the state board of education completely informed regarding the educational program and administrative policies of the schools. In the state department of education, the school for the deaf, the school for blind and local public school systems are required to work cooperatively to meet the educational needs of deaf, hard of hearing, blind, and partially sighted children. (*Sec. 107 Md. Stats.*)

The state superintendent is responsible for approving any program offered by any state institution under the supervision of the department of juvenile services, the department of correction and the department of mental hygiene, if such program complies with the standards of the state board of education. (*Sec. 28, Ch. 2, 1969*)

The state board of education is responsible for setting up the standards, rules, and regulations to examine, classify and educate children with mental, physical, or emotional handicaps who can be benefitted under the provisions of special education. The standards, rules, and regulations, including the prescribing of qualifications of teachers, curriculum and equipment and supervision of the program, are initiated by the state board of education. When setting up standards for emotinally disturbed children, the state board shall seek the advice and guidance of the state department of health and hygiene, and these two agencies shall cooperate in developing the standards, rules, and regulations. (*Sec. 101 Md. Stats.*)

PLANNING

By joint resolutions, the legislature of the state of Maryland requested the governor to abolish the governor's interdepartment council and advisory committee on the handicapped and appoint a commission to study the needs of the handicapped, with the commission not composed of more that 15 members including representatives of the medical and teaching professions, state and local administrative agencies, interested volunteer organizations, and the General Assembly. The legislature has expressed the feeling that for the purposes of coordinating all necessary programs and services for handicapped citizens a group of individuals free from bureaucratic entanglement can better carry out the function. (*Resolution #29, 1971*)

FINANCE

The expenses incurred in supporting and establishing classes for the mentally, physically, and emotionally handicapped are reimbursed by the state in the same manner as other school programs in the state, but in calculating the cost of the minimum program as a basis for determining the amount of the state's share of current expenses. Each professional staff member employed in the teaching of the handicapped is included as a professional staff member in making the calculation. Districts will also receive $1,000 toward the cost of teachers, special equipment, nursing, therapeutic treatment, transportation, and any other necessary operating costs per child or the actual cost of such services, whichever is less, and any additional amount per child included in the annual sub-budget by the general assembly. (*Sec. 101 Md. Stats.*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If any subdivision of the state is not providing special programs and services for handicapped children who attend an in or out-of-state school providing appropriate instruction and which is approved by the state board of education, the parents of such children will receive state reimbursement by $1,000 or the actual cost, whichever is less, as well as any additional amount included per child in the annual budget to assist in paying tuition and/or fees for the instruction of the child. (*Sec. 101 Md. Stats.*)

SERVICES

In providing special education services to handicapped children, transportation will be provided for all enrolled students in public schools and in schools maintained by any state agency, as well as in any non-public educational facility approved by the state department of education, if enrollment and transportation have been approved outside the state. (*Sec. 99 Md. Stats.*)

The governor shall place in the budget each year, a sum for training handicapped children who are under age six. Any money appropriated for this act will be spent for children who are defined as children "with a physical, mental and/or emotional impairment, which the judgment of the department, makes a special educational and training program necessary or desirable to help the child attain a scholastic achievement as near normal as feasible." Children suffering from mild, moderate, severe or profound hearing losses are included in this definition. (*Sec. 102 Md. Stats.*)

PRIVATE

See Administrative Structure and Organization.

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

MASSACHUSETTS

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literatures and the sciences and all seminaries of them; especially the University of Cambridge, public schools, grammar schools in the towns . . ." (*Ch. 5, P. 2, Mass. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements.

Children whose physical or mental condition renders attendance inexpedient or impracticable, subject to the provisions of Sec. 71B-3, are excused from the compulsory attendance requirements. No physical or mental condition capable of correction or allowing the child to receive special instruction at state expense in an institution other than a public day school exempts a child from the compulsory attendance requirements. (*Sec. 76-1 and 76-2 Mass. Gen. Law*)*

All persons having control of a deaf child between the ages of seven and 18 must have the child attend some suitable school. If a physical or mental condition other than the child's deafness renders attendance inexpedient or impracticable or if he is receiving approved private instruction, the child is excused from the requirements. (*Sec. 76-2A Mass. Gen. Law*)

Policy: The legislature of the state of Massachusetts has found that past development of special education programs resulted in a great variation of services to children with special needs—some children having a greater educational opportunity than others in less favored categories or environments. The legislature further found past methods of labeling and defining needs of children had a stigmatizing effect and caused special programs to be overly narrow and rigid both in their content and in their exclusion and inclusion policies. Because it is state policy to provide an adequate publicly-supported education to all resident children, this act provides for a flexible and uniform system of special education program opportunities for all children requiring special education and provides for a flexible, nondiscriminatory system for identifying and evaluating individual needs of children requiring special education; further it requires evaluation of the needs of the child and the adequacy of the special education program prior to placement and periodic evaluation of the benefit of the program to the child and his needs thereafter; and finally, it prevents denials of equal educational opportunity on the basis of national origin, sex, economic status, race, religion, and physical or mental handicap in the provision of differentiated education services.*

This act is designed to remedy past inadequacies and inequities by:

(1) defining needs of children requiring special education in a broad and flexible manner leaving state agencies with the ability to provide the more detailed definitions, recognizing that these children have varieties of characteristics and needs, all of which need consideration if a child's educational potential is to be realized;
(2) providing the opportunity for a full range of special programs;
(3) requiring that a program promises to be a special actually benefits the child assigned to it; and
(4) by replacing the present inadequate and antiequalizing formula for distribution of state aid for special education programs with an equalizing one which encourages cities, towns, and regional school districts to develop adequate special education programs over a reasonable period. (*Sec. 1, Chapter 766, 1972*)*

Responsibilities: All school committees must annually report, according to department regulations, the assignment by sex, national origin, economic status, race and religion of children by age level into special education classes. If in any district's special education program, there is a pattern of assignment throughout the district on the basis of sex, national origin, economic status, race and religion of students substantially disproportionate from the actual distribution, the department shall notify the district of its prima facie denial of equal educational opportunities. The department is then responsible for holding a public hearing to investigate such prima facie denial at which the local district must show that the disproportion is necessary to promote a compelling educational interest of the affected children and the state. If the district fails to do this, a denial of the equal educational opportunity is declared by the department and orders the district to submit a plan to eliminate the denial effective for the next school year. If the department views the plan as inadequate or if implementation of the plan proves inadequate, the department may then request the attorney general to proceed to the superior court for all necessary injunctive and other relief. If the prima facie denial is continued without elimination for a period of two consecutive years in any district, any person residing in the school district may bring suit in the superior court of his residence to determine whether there is adequate justification for the prima facie denial and if there is not to obtain the necessary and appropriate injunctive or other relief. (*Sec. 6, Chapter 71B, 1972*)*

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*All sections followed by an asterisk take effect on September 1, 1974.

[ ] All sections in brackets are repealed effective September 1, 1974.

[School committees of any town, regional, or city school district may provide special instruction periods for speech handicapped children.

If there are any children whose hearing is impaired and who can benefit from language training, lip reading, or auditory training, the school committee shall provide appropriate instruction. (*Sec. 69-29, Mass. Gen. Law)*]

[With approval of the state board of education, local school committees may organize and conduct sight-saving classes for blind and visually handicapped children. (*Sec. 69-32 and 69-33 Mass. Gen. Law)]*

[The school committee of every town or district committee of every regional district in which there are five or more mentally retarded children shall establish special classes for these children. If there are less than five children, special classes may be established.]

[In any town where there is a school age physically handicapped child or a child who is both physically handicapped and mentally retarded and unable to attend school, the school committee shall employ a teacher or teachers to offer instruction to the child in his home or at any place under the conditions the committee may arrange. (*Sec. 71-46A, Mass. Gen. Law)*]

[In all towns where there are five or more physically handicapped children unable to attend regular classes but who may attend special classes, these children will be given special class training. In any town where there is a child of school age physically able to attend school but so physically handicapped that it prevents normal educational growth and development, the child may be given the type of training recommended by the state department of education. (*Sec. 71-46A, Mass. Gen. Law*)]

[In any town or regional district where there is a child of school age who is so emotionally disturbed that attendance at a public school is unfeasible and who is not otherwise provided education, the school committee shall employ a teacher on a full- or part-time basis to offer instruction to the child at his home or at any other place approved by the committee. (*Sec. 71-46H, Mass. Gen. Law*)]

[In every city, town or regional school district or school superintendency union where there are emotionally disturbed children unable to attend regular classes but able to attend public school programs for the emotionally disturbed these children will be given special training and treatment with the approval of the departments of education and mental health. (*Sec. 71-46H, Mass. Gen. Law*)]

[In any town or regional district where there is a child with a learning disability the school committee may provide special instruction periods for such children. In towns or regional school districts where there are seven or more children with learning disabilities the school committee may establish a special class to furnish remedial instruction. (*Sec. 71-46K Mass. Gen. Law*)]

POPULATION

Definitions: " 'School age child with special needs' a school age child who, because of temporary or more permanent adjustment difficulties or attributes arising from intellectual, sensory, emotional, or physical factors, cerebral dysfunctions, perceptual factors, or other specific learning disabilities or any combination thereof, is unable to progress effectively in a regular school program and requires special classes, instruction periods, or other special education services in order to successfully develop his individual educational potential." (*Sec. 1, Chapter 71B*)*

" 'School age child requiring special education,' any child with special needs who requires special education as determined in accordance with the regulations set forth by the department." (*Sec. 1, Chapter 71B*)*

[Special education services may be provided to deaf, hearing impaired, blind, visually handicapped, aphasic, deaf-blind, mentally retarded, emotionally disturbed, physically handicapped, speech impaired, learning disabled, and mentally retarded-blind children.]

Age of Eligibility: " 'School age child' any person from ages 3 to 21 who has not obtained a high school diploma or its equivalent." (*Sec. 1, Chapter 71B*)*

[Children may receive services during the same period a town provides services for children in regular education programs.]

[Mentally retarded children attending a special class may, upon the request of their parents, be permitted to continue to attend the class upon reaching the age of 16. (*Sec. 71-46 Mass. Gen. Law*)]

IDENTIFICATION AND PLACEMENT

Census: [The commissioner of education will conduct an annual survey, with the cooperation of the supervisor of special schools and classes and the director of the division of the blind, to determine the number of blind children—their school ages, grades, and residences. If the survey establishes proof of the need of special classes, the commissioner may recommend, with the approval of the board, that local school committees organize and conduct classes. (*Sec. 69-33 Mass. Gen. Law*)]

[Under regulations of the departments of education and mental health, school committees in all town and regional districts will ascertain the number of resident emotionally disturbed children. (*Sec. 71-46H, Mass. Gen. Law*)]

[All school committees under regulations of the department, after consultation with the departments of public welfare, and public health, will annually ascertain the number of school age physically handicapped children. (*Sec. 71-46A Mass. Gen. Law*)]

[Under regulations of the departments of education, public health, and mental health, the school committees of all town and regional districts will yearly ascertain the number of school children with specific learning disabilities resulting from perceptual motor handicaps including problems in visual perception and integration and congenital dyslexia. (*Sec. 71-46K Mass. Gen. Law*)]

[Under regulations of the departments of mental health and education, numbers of children retarded in mental development attending the public schools or of school age not attending schools are to be ascertained. (*Sec. 71-46, Mass. Gen. Law*)]

Screening: The school committee and the board of health (in those districts where school health service is the responsibility of the board of health) shall have every child in the public schools examined at stated intervals including his original entry into the schools, as determined by the department of public health, after consultation with the department of education and the medical profession. Children will be examined for defects in sight or hearing or any other physical defects which would prevent the child receiving the full benefit of school work or requiring a modification of the work in order to prevent injury to the child or to secure the best educational results. Parents or guardians of the children will be notified if the child is found to be suffering from any disease or defect or if any child is found to have any defect or disability requiring treatment. (*Sec. 71-56, Mass. Gen. Law*)

Special Education Evaluation: [Mentally retarded children are placed in classifications of educable, trainable, and custodial. A child appearing to be mentally retarded "in any less degree" may be examined under regulations of the departments of education and mental health. School committees of every city, town, or regional districts will annually administer an aptitude test to all children under their control between the ages of seven and 16 who have been ascertained to be mentally retarded. No child retarded in mental development under the control of the department of public welfare shall be placed in a town or regional school district not required to maintain a special class. (*Sec. 71-46, Mass. Gen. Law*)]

[Parents or guardians of any child classified mentally retarded may apply in writing to the department of education for a review of the classification. (*Sec. 71-46D, Mass. Gen. Law*)]

No child may be assigned to a special education program unless an evaluation of the child's needs and the particular program that the child is likely to benefit from has been determined. The child and his program must be re-evaluated at least annually to determine whether the child is benefiting from the program according to standards set forth below. If the program is not benefiting the child and another program may benefit him more or the program has benefited the child sufficiently to permit his assignment, the child will be reassigned. In the event of a consistent failure to benefit children, a program shall be abolished or altered. (*Sec. 2, Chapter 71B*)*

In accordance with the regulations, guidelines, and directives jointly issued by the department with the departments of mental health and public health and with the assistance of the department of education, the school committees of every city, town, or school district will identify all school age children with special needs. They will diagnose and evaluate the needs of these children and propose special education programs to meet their needs, provide or arrange for the provision of the program, maintain a record of the identification diagnosis, proposal and program actually provided, and make any required reports to the department. Until otherwise proven, every child is presumed to be approximately assigned to a regular education program and not to be a school age child with special needs or a school age child requiring special education. No school committee may refuse a school age child with special needs admission to school or continued attendance in a public school under department rules. No child refused attendance or continued attendance will be denied an alternative form of education approved by the department through a tutoring program at home, through enrollment in an institution operated by a state agency, or through any other program approved for the child. No child may be placed in a special education program without prior consultation, evaluation, reevaluation, and consent as specified and implemented by department regulations.

Within five days after a child enrolled in a regular education program has been referred by a school official, parent or guardian, judicial officer, a social worker, a family physician or other person having custody of the child, to determine whether the child needs special education, the school committee must notify the parents or guardians of the child in writing in the primary language of the home of the referral, the evaluation procedure to be followed and the child's right to individual evaluation at facilities approved by the department under regulations adopted jointly with the mental health and public health departments and their right to appeal any evaluation, first to the department and then to the courts. Within 30 days after the notification, the school committee must provide an evaluation as described below.

The evaluation must include an assessment of the child's current educational status by a local school department representative, an assessment by a classroom teacher who has had the child as a pupil in the classroom, a complete medical assessment by a physician, an assessment by a psychologist, nurse, social worker or guidance counselor of the general home situation and pertinent family history factors, and assessments by any other specialists required in accordance with the diagnosis, included when necessary but not limited to, assessments by neurologists, audiologists, ophthalmologists, and specialists competent in speech. Requirements for persons assessing children requiring special education will be developed by joint regulations of the departments of education, mental health and public health. These departments through their joint regulations will define the circumstances under which the requirements of any or all of these assessments may be weighed as long as an evaluation is appropriate to the needs of the child if provided. Those persons assessing the child will maintain a complete and separate record of all diagnostic procedures used and their results, conclusions reached, suggested courses of special education and medical treatment best suited to the individual's needs, and the specific benefits expected from this action. A proposed special education program may include a course of study that is not a regular education program. The persons assessing the child will present a method of monitoring the benefits of the special education to the child and the conditions which would indicate that the child should return to regular classes and expected results of regular class placements. (*Sec. 3, Chap. 71B, 1972*)*

If a child with special needs requires a medical or psychological treatment as part of the special education programs or his parent or guardian requires social services related to the child's special needs, this treatment and services or both will be made available in accordance with joint regulations of the departments of education, mental health, public health, and public welfare in connection with the child's special education program. Reimbursement for the cost of this treatment or services will be made according to the provisions of Section 13 (see Finance).

Upon completing the evaluation, the child may obtain an independent evaluation from child evaluation clinics or facilities approved by the department jointly with department of health and public health or at private expense from any specialist. The original record and clinical history from both the evaluation provided by the school committee and the independent evaluation must be made available to parents, guardians or persons having custody of the child.

Separate instructions, limited to the information required for adequate care of the child, are distributed only to persons directly concerned with the child's care. Otherwise, these records will be confidential.

Hearings may be held by the department regarding the evaluation. These hearings must be held in accordance with the provision of Chapter 30A. The parents, guardians or other person having custody have the right to refuse the education programs suggested by the initial evaluation and request a department hearing of the evaluation of the child and an appropriate educational program. At the conclusion of the hearing with the consultation and advice of the appropriate advisory council the department may recommend alternative placements to parents, guardians, or other persons with custody and these persons may either consent to or reject these proposals. If rejected and the programs desired by the parents, guardians, or persons with custody is a regular education program, the department and local school committee will provide the child with the educational programs chosen by parents, guardians or persons with custody except where the placement would seriously endanger the health or safety of the child or substantially disrupt the program of other students. In these circumstances the local school committee may proceed to the Superior Court with jurisdiction over the residence of the child to make this showing. If this is shown, the court is authorized to place the child in an appropriate educational program.

If the parents, guardians or persons with custody reject the educational placements recommended by the department and desire a program other than a regular education program, the matter is then referred to the state advisory commission on special education to be heard at its next meeting. The commission must make a determination within 30 days of the meeting regarding the placement. If this placement is rejected, they may proceed to the Superior Court with jurisdiction over the residence of the child, and the court is authorized to order the placement of the child in an appropriate program.

During the evaluations, assessments, and hearings a child will be placed in a regular education program, unless the placement endangers the health or safety of the child and substantially disrupts the educational programs for other children.

No parent or guardian of any child placed in a special program will be required to perform duties not required of a parent or guardian of a child in regular school program.

Within 10 months of placement in a special program and at least annually thereafter the child's educational progress will be evaluated in the same manner described above. If the evaluation suggests the initial evaluation was in error or a different program or medical treatment would now benefit the child more, an appropriate reassignment or alteration in treatment is then recommended to the parents, guardian, or person with custody of the child. If the evaluation shows that the program does not benefit the child to the maximum extent feasible, then the child will be reassigned.

Evaluation and assessments of children in special education programs are confidential and may be used only for the administration of special education, including, but not limited to, inspection by the department and regional and state advisory councils to insure that every program benefits children assigned to it. (*Sec. 3, Chapter 71B, 1972*)*

No results of standardized or local tests of ability, aptitude, attitude, affect, achievement or aspiration may be used exclusively in any selection of children for referral, evaluation, diagnosis, or evaluation. These tests must be approved by the department according to all regulations issued by the board to assure that they are as free as possible from cultural or linguistic bias or whenever necessary separately evaluated with reference to the linguistic and culture group to which the child belongs. (*Sec. 7, Chapter 71B, 1972*)*

A child placed in a special education program as of the effective date of this act (September 1, 1974) is presumed to be appropriately assigned to the program until an evaluation according to the provisions of Section 3, Chapter 71B indicates that another program would benefit the child more. (*Sec. 16, Chapter 766, 1972*)*

No child with special needs in a program on the effective date of the act may be removed from the program without written consent of his parents, guardians or other person with custody of the child. (*Sec. 17, Chapter 766, 1972*)*

ADMINISTRATIVE RESPONSIBILITY

[The board of education shall appoint an assistant supervisor within the division of elementary and secondary schools and teacher's colleges to direct and supervise the education of blind children and children whose eyesight is seriously impaired. The board may annually expend any sums appropriated to provide sight-saving classes for children who are certified by a registered opthalmologist as fit subjects for instruction. (*Sec. 69-32, Mass. Gen. Law*)]

[The program for the speech handicapped and hearing impaired children is subject to the regulations of the department of education. (*Sec. 69-29, Mass. Gen. Law*)]

[All special education programs supported wholly or partly by the state department of education are directed and supervised by the division of special education. The division may approve the purchase, lease, and maintenance of special audio equipment and instruction outside the classroom for physically handicapped children unable to attend public school, and the division is responsible for compliance by city, town, or regional school districts with the special education program, the instruction of educable and trainable mentally retarded children and physically handicapped children. (*Sec. 69-29A, Mass. Gen. Law*)]

[All cities and towns having at least 50,000 residents shall appoint a supervisor of special classes for the mentally retarded. The supervisor must have experience in teaching such special classes or be certified as qualified by the department of education. (*Sec. 71-46 Mass. Gen. Law*)]

The department of mental health is responsible for supervising and administering the institutional programs for the emotionally disturbed and the mentally retarded. (*Sec. 888-14a Mass. Gen. Law*)

The department shall, in cooperation with the departments of public health, mental health, and welfare, establish regulations for programs for children with special needs. These regulations must include, but are not limited to, a definition of special needs, emphasizing a thorough narrative description of each child's developmental potential to minimize the possibility of stigmatization and to ensure the maximum possible development of each child. The definition must have the flexibility to include children with multiple needs. (*Sec. 2, Chapter 71B*)*

The powers and duties of the division of special education include the following:

1. to regulate, consult with, and assist school committees to identify, classify, refer, and place children requiring special education;
2. to regulate all aspects of and assist in the development of all special education programs either partly or wholly state supported;
3. to coordinate the expertise of professionals from appropriate disciplines within and without the department of education and to coordinate the services of all state agencies providing educational assessment and educational services to children requiring special education;
4. to compile data on and require all public schools and agencies and any private schools or agencies receiving funds, to provide information relating to all children requiring special education and in all special education programs either wholly or partly state supported;
5. to periodically review and analyze the data mentioned above to evaluate programs and disseminate statistical data upon request to any citizen or agency within the state. All records pertaining to individuals are confidential;
6. to develop public information programs regarding the nature and extent of special education needs of children and the availability of special education programs to meet these needs;
7. to develop and recommend to the state board certification standards for educational personnel employed in the special education programs and regulations encouraging a greater use of ancillary personnel;
8. to cooperate with and assist public and private colleges and universities to develop courses and programs to prepare graduates to serve the educational requirements of these children;
9. to receive and investigate complaints and to conduct public and executive hearings with subpoena power on behalf of an individual child or a group of children receiving or requiring special education and regarding any aspect of any special education program and to initiate its own investigation without a complaint;
10. to receive and allocate federal and state funds subject to the priorities of this law and the state board;
11. to recommend to the board of education any rules, regulations, or guidelines and to issue necessary directives to carry out this law and to execute any other provisions relative to administering special educational programs;
12. to provide for the maximum practical involvement of parents of children in special education programs in the planning, development, and evaluation of programs in the districts serving their children;
13. to approve the purchase, lease, and maintenance of all special education equipment for the instruction outside of the classroom of handicapped children for whom attendance in public school is unfeasible and to regulate the conditions under which a child may be considered so handicapped;
14. to investigate into and hold hearings upon prima facie denials of equal educational opportunities "by reason of national origin, sex, economic status, race, religion, or physical or mental handicaps of school age children requiring special education." The division may issue any declaratory and injunctive orders necessary to cure any actual denials of equal educational opportunity because of discrimination on basis of any of the above;
15. to require public and private schools or educational agencies receiving state funds to establish cost accounting and reporting procedures, forms, schedules, rates, and audits conforming with department standards and to report to the department as required;
16. to conduct or contract with any federal, state, or private agency research and development projects to improve special education program quality or efficiency;
17. to allocate resources proportionately if funding shortages occur;

18. to place children in special schools or agency programs near their residences and to allow other placements if suitable public programs and services are unavailable;
19. to take all steps including but not limited to public hearings and investigations to insure that local and state expenditures provide the maximum feasible benefit to all children requiring or receiving special education;
20. to develop and recommend appropriate parent counseling or educational programs necessary for the child's educational development; and
21. to recommend to the board that special education funds be withheld from cities, towns, school districts, private schools, or agencies not complying with regulations or not carrying out plans for compliance within a reasonable period of time; however, the board is not prevented from withholding state and federal funds to the extent deemed necessary in Section 1G, Chapter 15. (*Sec. 1M, Chapter 15, 1972*)*

The division must have a sufficient number of bureaus to enable it to carry out its functions. The board upon the commissioner's and associate commissioner's for special education recommendation will appoint a director with experience in the education of such children for each bureau. One bureau will be responsible for holding hearings and conducting investigations mentioned in numbers 8, 13, and 18 above. (*Sec. 1N, Chapter 15, 1972*)*

In each department of education regional office there must be a regional branch for the division of special education. Each branch will be headed by a director chosen in the same manner as directors of the division's bureaus.

Regional branches will have the following functions:

1. to consult with and assist school committees in implementing regulations, guidelines, and directives of the department;
2. to directly assist school committees in identifying, diagnosing, and evaluating children with special needs and developing special programs to meet their educational needs;
3. to approve all special education placements made by school committees;
4. to assist and encourage implementation of joint agreements between two or more school committees to provide special education;
5. to investigate and evaluate any special education program at the department's request or on its own initiative;
6. to maintain a list and inform school committees of professional personnel within and without the region qualified to assist these children and to make this information available upon request to parents, guardians, or persons having custody of such children; and
7. to have any other responsibilities delegated to it by the department. (*Sec. 1 O, Chapter 15, 1972*)*

Departments issuing regulations according to Chapter 71B must make these regulations available at least six months prior to the effective date of the act to a committee for review. The committee will be appointed by the board for that purpose alone. Representatives of several types of institutions now serving children with special needs both public and private and members experienced in providing educational services to the several existing categories of children with special needs shall be represented on the committee. Further, parents of children with special needs who are in both public and private programs, classroom teachers, teachers primarily of children with special needs and persons directly affected by the special education act or having experience in the implementation of programs for children of special needs will also be on this committee. For each statutory category of children with special needs at least one member knowledgeable and experienced in working with that category of children must be included on this committee. (*Sec. 19, Chapter 766, 1972*)*

The department of education after consulting with the departments of mental health and public health is responsible for defining the circumstances in which school committees may be required to provide special classes, instruction periods or other special education programs for school age children with special needs and shall also provide standards for class size, curriculum, personnel and any other aspects of the special education program. (*Sec. 9, Chapter 71B, 1972*)*

The department will maintain a school department for school age children in all institutions under the control of the departments of mental health, public health, and youth services, that will provide support and care for resident children with special needs. They will act jointly with the department having control over the particular institution, but appropriation for the administration of the school departments will be administered by the department of education. School departments will be administered by a director appointed jointly by the commissioner of education and the superintendent of the institution. Each department will have a staff as determined jointly by the two departments. The school departments will operate according to regulations established jointly by the department of education and the department administering the particular institution. Nothing in this section will affect the continued authority of departments operating these institutions over all non-educational and all treatment programs for residents or patients in the institutions under their control.

The director and staff of each school department will be employees of the department of education, which will assume the cost of all aspects of the educational program. The school department in institutions operate 12 months of the year. The salaries paid must be at least equivalent to the average state wide public school salaries of comparable personnel in the public schools, adjusted to account for the longer school year. Benefits paid to such personnel will be similarly comparable to those of public school personnel. Nothing in this section shall operate to remove from employment any educational personnel already employed by any institution now under the administration of the departments of mental health, public health or youth services, or to reduce their salaries or other employee benefits.

The per capita expenditure on education programs in each school department will be equivalent to or higher than the average expenditure for special education programs in the public schools in the state less the average transportation cost. The average expenditure will be computed annually by the department.

The city, town or regional district of residence shall pay to the state the cost of education of the child in the institution as determined by regulations; however, the payment of each child shall not be less than the average per pupil cost for children of comparable age within the city, town or school district. The amount due the state each year will be deducted from the annual distribution to the city, town or school district. *(Sec. 12, Chapter 71B, 1972)**

PLANNING

Because present inadequacies and inequities in providing special education services have resulted largely from a lack of significant parent and lay involvement in overseeing, evaluating, and operating special programs, this act is designed to insure this involvement by creating regional and state advisory committees with significant powers and specifying an accountable procedure to evaluate each child's needs before placement in a program and periodically thereafter. *(Sec. 1, Chapter 766, 1972)**

In each region there must be a special education advisory council consisting of at least 16 members appointed by the department after consulting with the regional branch director. At least eight of the members must be parents residing in the region with children in special educational programs; however, no more than two parents may have children not attending public school day programs. Each member is appointed for three years and none may be appointed for more than two consecutive terms. Each council shall advise the regional branch regarding all aspects of special education within the region and will submit a written annual report on the quality and adequacy of the region's program to the state advisory commission. In addition, the council shall hear and transmit to the state advisory commission complaints and suggestions of persons interested in special education in the region. Council members shall be granted access to special education programs and information about these programs subject to the board restrictions regarding confidentiality. The regional branch of the division of special education will assist them in carrying out these duties. Members of the council will be only reimbursed for necessary expenses by the state. *(Sec. 1 P, Chapter 15, 1972)**

A state advisory commission for special education will be formed consisting of two members elected from each of the regional advisory councils, at least one of whom will be a parent or guardian of a child receiving special education. The commissioners of the departments of mental health, public health, and public welfare will each appoint a representative to serve as an ex-officio member of the commission. Members will be reimbursed only for necessary expenses incurred in the performance of their duties. The commission shall submit an annual report to the department evaluating the quality and adequacy of special education programs and recommending any improvements. The department will implement the recommendations of the commission or will state in a written reply why the recommendations cannot or should not be implemented. In these circumstances, the bureau responsible for hearing complaints and conducting investigations in the division of special education will attempt to resolve the disagreement informally; however, if a settlement cannot be reached the state board will conduct public hearings to investigate the basis of the disagreement and resolve any dispute between the commission and the department. *(Sec. 1 Q, Chapter 15, 1972)**

The secretaries of the executive offices of human services and education must jointly submit an annual report to both the governor and legislature to evaluate the success with which their departments have cooperated to implement this act and submit any recommendations for approving the ability of this state to meet the needs of such children. *(Sec. 15, Chapter 71, 1972)**

FINANCE

[One-half the cost of instruction and training of special classes or special instructional periods for the mentally retarded, physically handicapped, emotionally disturbed, learning disabled, and partially seeing in special schools or public schools, including necessary traveling expenses whether daily or otherwise, is reimbursed by the state with the approval of the department of education.]

[The department reimburses cities and towns in which resides a child who attends a clinical nursery school because of insufficient classroom space in a community clinical nursery school, day care center, or other institution for the care, education, and treatment of retarded children conducted by an accredited school or college, or for a retarded person who has attended an educational, habilitational, or day care program operated by the department of mental health, by paying one-half of the cost of transportation for each child and the full cost for each adult to and from the educational, habilitational, or day care program. (*Sec. 69-29B, Mass. Gen. Law*)]

[One-half the expense of purchasing, leasing, or maintaining special audio equipment for physically handicapped children is reimbursed from the local aid fund. (*Sec. 69-29C, Mass. Gen. Law*)]

[If a town furnishes instruction to a physically handicapped child in a hospital, sanatorium, or a similar institution located within its boundaries and the child is not a legal resident of the district, the district of residence will pay tuition to the town furnishing instruction. By July 15 yearly, the town furnishing the instruction will submit to the department of education an itemized statement of the actual cost of instruction for children confined in hospitals, including cots for teachers, textbooks, supplies, and general control. The department will determine the reasonableness of the costs and by the 1st of September will notify the town if its statement is approved or, if disapproved, shall send the town its own determination of reasonable costs. The approved cost will be divided by the pupil's days of instruction. The result constitutes the daily tuition for the pupil paid for by the town where the parent or guardian has a legal residence. (*Sec. 71-46A, Mass. Gen. Law*)]

[Any town conducting classes for the blind, at the direction or request of the commissioner, will be reimbursed by the state for the total cost of instruction and transportation. (*Sec. 69-33, Mass. Gen. Law*)]

[If a town furnishes instruction to an emotionally disturbed child in a school, hospital, sanatorium, or a similar institution, who is not a legal resident of the district, the district of residence will pay the tuition to the town furnishing the instruction. The tuition rate will be established in the same manner as the tuition rate for mentally retarded and physically handicapped children. (*Sec. 71-46H, Mass. Gen. Law*)]

[The department will provide the services of assistant supervisors of itinerant programs for visually handicapped children. The programs are developed by the division of special education in cooperation with the cities and towns, and the total cost of these programs will be paid by the department of education. (*Sec. 69-34, Mass. Gen. Law*)]

[If a district pays teachers of the mentally retarded, compensation above that paid to regular education teachers, the state shall reimburse districts up to $500 for this extra compensation. "Teachers" includes all supervisory personnel concerned with educating and training of mentally retarded children. (*Sec. 71-46E Mass. Gen. Law*)]

[The state reimburses cities, towns, and regional school districts for the purchase, lease, or maintenance of special audio-visual equipment for the mentally retarded, physically handicapped, speech handicapped, blind, and visually handicapped. (*Sec. 71-46F, Mass. Gen. Law*)]

Any school committee providing or arranging for special education services will pay for special education personnel, materials and equipment, tuition, room and board, transportation, rent and consultant services necessary to provide these services. A school incurring obligations as a result of Chapter 71 B must include in its budget for the fiscal year beginning September 1, 1973, and annually thereafter funds sufficient to comply with the provisions of this chapter. The amount will be added to the annual budget appropriation for school purposes and will be a portion of the amount necessary in each city or town "for the support of public schools for the purposes of, and enforceable pursuant to, Section 34, Chapter 71, notwithstanding any general or special laws or charter provisions which limit the amount of money that may be appropriated in any city or town for school purposes." (*Sec. 5, Chapter 71B, 1972*)*

Costs in instruction, training and support including the cost of special education personnel material, equipment, tuition, transportation, rent and consultant services of children in special classes, instruction periods or other programs shall be reimbursed for the cost exceeding the average per pupil expenditure of the city, town or school district for the education of children of comparable age by the state. However, the amount of this reimbursement for each pupil in the city, town, or school district can not exceed 110 percent of the applicable state average expenditure for each special education pupil minus that state average expenditure. The department shall differentiate between types of programs on the basis of the amount of time a child requires special programs outside of the regular classroom to meet his particular needs and the ratio of personnel to pupils required for these programs. This reimbursement is made only after approval and certification by the department that these are reasonable expenditures and the funds were actually expended in special education classes and instruction, programs meeting state standards and requirements. The costs for each special education pupil shall be "reimbursable expenditures" within the meaning of Chapter 70, in an amount not exceeding the average pupil expenditure for the city, town or school district and will be reimbursed under Chapter 70.

The department will reimburse the city or town in which a child resides who attends a clinical nursery school or a child who, because of insufficient classroom space in a clinical nursery, attends a clinical nursery school, day care center or other institution for the care and educational treatment of retarded children conducted by a school or college accredited by the state, or a retarded person attending an educational, habitational, or day care facility or program of the mental health department by paying one-half the cost of transportation for each child and the full cost for each adult to and from the educational, habitational, or day care programs or facility on each day the school is in session.

Any reimbursement to cities and towns will be made to the school committees of the cities and towns and will be applied to the cost of programs. (*Sec. 13, Chapter 71B, 1972*)*

By November 20th each year the state treasurer will pay to any city or town or regional school district sums as certified by the commissioner for special equipment purchased, leased, and maintained or of classes or special instruction periods conducted (*Sec. 14, Chapter 71B, 1972*)*

The amount reimbursed to a city, town or school district under Section 13 of Chapter 71B of the General Laws, inserted by Section 11 of this act, combined with reimbursements for special education programs under Chapter 70 of the General Laws shall not be less than the reimbursement for special education programs received for the fiscal year 1974, until and unless said city, town, or school district qualifies for a less amount after September 1, 1979. (*Sec. 21, Chapter 766, 1972*)*

A local school committee is not responsible for more than the average per pupil cost for pupils of comparable age within their city, town, or school district, its share of the cost of continuing placement for those children with special needs who are enrolled in an institution with the state paying the tuition at the effective date of this act. (*Sec. 18, Chapter 766, 1972*)*

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

[The department of education shall in any town, city or regional district where a deaf child resides, in cooperation with the local school committee, establish day class programs for deaf children in the public schools. If there are less than five children residing in any city, town, or regional school district, the department may provide for the establishment of cooperative programs with adjacent towns, cities, or regional districts. All programs will be coordinated on a regional, statewide basis according to the regulations of the department including matters pertaining to establishment of classes, curriculum, and conditions of instruction, physical facilities and equipment, class composition and size, admission of students, and requirements respecting all services. Cost of the programs including transportation will be paid by the state from the local aid fund subject to appropriation. (*Sec. 69-28, Mass. Gen. Law*)]

[Any school district which pays to teachers of special classes for the deaf a salary in excess of regular teachers' salaries will be reimbursed by the state treasurer for the excess compensation up to $500. This includes teachers at the Horace Mann School for the Deaf. (*Sec. 69-28, Mass. Gen. Law*)]

[In any city, town, or regional district with children with impaired hearing, the department (in cooperation with school committees) shall establish day classes or resource teacher programs. If there are less than five children with impaired hearing in a district, provision may be made by the school committee with the state department of education for an approval of placement in a cooperative program with adjacent cities and other regional school districts. The cost of the programs including transportation is paid by the state from the local aid fund. (*Sec. 69-29E, Mass. Gen. Law*)]

[Any town, city, or regional school districts with the approval of the appropriate department, may join with another town, city or regional district to provide for special instruction for mentally retarded, physically handicapped, speech handicapped, blind, visually handicapped, emotionally disturbed children, and children with learning impairments. (*Sec. 71-46J, Mass. Gen. Law*)]

To provide special education for all children needing it, the school committee of any city, town, or school district may enter into an agreement with any other school committee to jointly provide special education or, subject to the consent of the parent or guardian any constitutional limitations, may enter into agreement with a public or private school, agency, or institution to provide the necessary services within the city, town, or school district. When school committees jointly provide special education, an agreement will designate one city, town, or school district as the operating agency. The funds received by the operating agency from other cities, towns, or school districts or appropriated by the agency to fulfill the obligations of the agreement in addition to any gifts or grants will be deposited with and held as a separate account by the agency's treasurer. The school committee may apply these funds to the cost of programs operated under this agreement without any further appropriations. *(Sec. 4, Chapter 71B, 1972)**

Because professional services and resources must be available to cities, towns, and regional districts on a regional basis, if this program is to be successfully implemented within a reasonable time period, this act strengthens and regionalizes the division of special education in the department of education and provides for meaningful cooperation among agencies concerned with children with special needs. *(Sec. 1, Chapter 766, 1972)**

SERVICES

[When providing homebound instruction, local school committees may purchase, lease, and maintain special audio equipment approved by the division of special education. *(Sec. 71-46A Mass. Gen. Law)*]

[Local committees shall establish occupational training programs for mentally retarded children age 18 and under. Such programs may be established for mentally retarded children over the age of 18. *(Sec. 71-46, Mass. Gen. Law)*]

[If a mentally retarded, physically handicapped, or emotionally disturbed child or a child with learning impairments attends school or an occupational training program within or without the city or town of his residence, the school committee of the town of his residence shall provide transportation once each day to and from the school or occupational training program. The city or town providing the transportation is eligible for reimbursement for one-half the cost of such transportation. *(Sec. 71-46B, Mass. Gen. Law)*]

[The department cooperates with cities and towns to establish recreational programs for physically and mentally handicapped persons. These programs are under the direction of the division of special education. One-half the cost, including transportation to and from the site of the programs, is reimbursed by the state. Cities and towns may also be reimbursed one-half the cost of transportation for the persons attending recreational programs at the Walter E. Fernald State School, Wrentham State School, Myles Standish State School, and Belchertown State School. This reimbursement is paid out of the local aid fund. *(Sec. 69-29D, Mass. Gen. Law)*]

[Teachers of children with learning disabilities must have special qualifications. These teachers may be hired as consultants and any probationary period may be waived for the purposes of obtaining certification. *(Sec. 71-46K, Mass. Gen. Law)*]

In the division of special education there is a library center for the acquisition, maintenance, and distribution of books and other materials for the instruction of visually handicapped children. *(Sec. 15-15B Mass. Gen. Law)*

" 'Regular education,' the school program and pupil assignment which normally leads to college preparatory or technical education or to a career."

" 'Special education,' educational programs and assignments, namely special classes, programs or services designed to develop the educational potential of children with special needs but not limited to educational placements of children by school committees, the departments of public health, mental health, and youth services and the division of family and children's services in accordance with the regulations of the department of education." *(Sec. 1, Chapter 71B)**

Children receiving or requiring special education are entitled to participate in any of the following types of programs:

1. supplementary direct or indirect instruction, consultation service, materials, equipment, or aid provided to children or their regular classroom teachers directly benefiting such children;
2. supplementary individual or small group instruction or treatment in conjunction with a regular classroom program;
3. integrated programs during which a child may be assigned to special resource classrooms but attends regular classes to the extent he is able to function within them;
4. full-time special class teaching or treatment in a school building;
5. treatment or teaching at home;
6. full-time teaching or treatment in a special day school or other type day facility;
7. teaching or treatment at a hospital;
8. teaching or treatment at a short- or long-term residential school;

9. occupational and preoccupational training in conjunction with the regular occupational training program in a public school;
10. occupational and preoccupational training in conjunction with a full-time special class in a public school building, at home, special day school, or other day facility, hospital, or short- or long-term residential school; or
11. any combination or modification of the above programs or other programs, services, treatments, or experimental provisions that have prior approval of the department. (*Sec. 2, Chapter 71B*)*

Admission to programs on a preschool level (at an earlier age than which schooling is ordinarily provided) is regulated by the department in conjunction with the public health and mental health departments and is restricted to children with substantial disabilities and adjudged by these departments to require special preschool programming. (*Sec. 2, Chapter 71B*)*

The department, in cooperation with cities and towns, is to establish recreation programs for school age children with special needs. The programs will be under the direction and approval of the division, and the department will reimburse cities and towns for one-half the cost, including transportation of children to and from the program each day it is held. The department will fully reimburse the city or town in which the children are residents for the cost of transportation to and from a recreation program at any state facility conducting approved recreation programs. (*Sec. 11, Chapter 71B, 1972*)*

If a school age child with special needs attends a school approved by the department within or out of the city or town of residence of the parent or guardian, the school committee of residence may be required to provide transportation once each day including weekends, wherever applicable to and from school. When a child is in attendance, reimbursement will be provided to the city or town providing transportation according to Section 13, Chapter 71B. (*Sec. 8, Chapter 71B, 1972*)*

A city or town providing instruction to a child who is a resident of an institution but not a resident of the city or town may receive from the state the school expenses incurred by the child's attendance, to be determined jointly by the school committee of the city or town and the department of education or in the case of a disagreement by the Probate Court. The amount received by a city or town is limited to the annual per pupil cost of education as determined under Section 7, Chapter 76. No costs may be reimbursed under this section which would be reimburseable under Section 13, Chapter 71B. (*Sec. 11, Chapter 76, 1972*)*

PRIVATE

[The department of education, upon the request of any parent or guardian and with the approval of the governor, may send any deaf, blind, or aphasic child for 12 years to the American School for the Deaf in Hartford, Conn., Clark School for the Deaf, Horace Mann School, Beverly School for the Deaf, Boston School for the Deaf, Rhode Island School for the Deaf in Providence, R.I., or to any other school for the deaf or school with remedial treatment for the deaf either within or without the state as the parents or guardians may prefer, or to the Perkins School for the Blind, or any other school within or without the state providing instruction for the blind, or any school within or without the state providing instruction for aphasic children.]

[The schools must offer 9th, 10th, 11th, and 12th grade educational curricula equivalent to that of secondary schools of the state as determined by the department. Upon the request of a parent and approval of the governor, the department of education may continue instruction at these institutions for a longer term for children who are meritorious pupils recommended by the principal or other chief administrative officer of the school which they attend.]

[With the approval of the governor, the department may provide for the care and education of deaf-blind children or children who are both mentally retarded and blind. No child may be withdrawn from these institutions or schools without the consent of the authorities of the school or the department. The expenses of the instruction and support for the children, including necessary travel expenses are paid by the state. The parents or guardians of the child who are wholly or in part able to provide for their support and care, may be required to reimburse the state on an ability-to-pay basis. (*Sec. 69-26, Mass. Gen. Law*)]

[The education of all pupils in these institutions is supervised and directed by the department of education. (*Sec. 69-27 Mass. Gen. Law*)]

[Upon parental request, the department of education, with the approval of the governor, may provide for emotionally disturbed in a school, hospital, sanatorium, or any similar institution within or without the state, remedial treatment for a term not exceeding 12 years under joint regulations of the departments of education and mental health. The rules and regulations and the reimbursement for this program is the same as the program for the deaf, blind, or aphasic children. (*Sec. 71-46I, Mass. Gen. Law*)]

[Under regulations of the departments of education, public health, and mental health and upon parental request and with the governor's approval, the department of education may send children having specific learning disabilities to any school within the state offering remedial treatment for these children. This program may continue for any term recommended by the principal or any other chief administrative officer of the school. (*Sec. 71-46L, Mass. Gen. Law*)]

[One-half of the cost of the instruction will be reimbursed by the department of education. (*Sec. 69-29B, Mass. Gen. Law*)]

[Physically handicapped students may (like deaf, blind and emotionally disturbed students with the same type regulations and with the Commonwealth paying all expenses) be sent to schools within the state for remedial instruction. (*Sec. 71-46M, Mass. Gen. Law*)]

On an annual basis the department when requested by the parent or guardian and the recommendation of the local school committee, a regional branch of the division, with the approval of the secretary of educational affairs, may refer children requiring special education to any institution either in or out of the state offering curriculum, instruction, and facilities appropriate to the child's needs and approved by the department under regulations of the departments of education, mental health, and public health. The curriculum of these institutions must be equivalent insofar as the department deems feasible to the curriculum of children of comparable age and ability in a public school of the state. Prior to acting on any such request the department must determine the nature and extent of the child's special needs. They must require the local school committee and regional advisory council to prepare and submit plans detailing the time needed to establish adequate facilities for children with special needs in their own city, town, or school district and must ascertain whether adequate facilities and instruction programs are available and when adequate facilities can be made in a city, town or school district of residence. Until adequate facilities are available the child will be placed in the most adequate programs available as determined by the department. The department shall further define by regulation the circumstances in which it would be directly responsible for placing children and by the standards available to the public, determine the method and order of these placements; however, no child will be denied access to any programs operated by the departments of mental health, public health or public welfare, to which in the judgment of the operating department the child should be admitted.*

The expenses of the instruction and support actually furnished to the child, including traveling expenses whether daily or otherwise but not exceeding ordinary and reasonable compensation will be paid by the state, but the department shall issue joint regulations with the mental health, public health and public welfare departments defining circumstances in which the state will be required to pay all of the cost and the cases when a parent or guardian may be required to reimburse the state for part of all of the cost. However, the cost to the school committee for such a placement cannot be less than the average cost per pupil of comparable age children within the city, town, or school district. In determining the cost to the parent or guardian, if any, no charge will be made for any educational support, only for support and care. In the determining a parent or guardian's cost the department will apply criteria taking into account relative ability to pay.*

The department shall direct and supervise the education of all children, and the commissioner will state in his annual report their number and cost of their instruction and support, the manner in which the appropriated money has been expended, and to what extent reimbursed and any other important information. Nothing in this clause affects the continued authority of the departments of mental health and public health over all non-educational programs and all treatments for residents and patients in institutions under their control. (*Sec. 10, Chapter 71B, 1972*)*

PERSONNEL

Special education scholarships not exceeding $300 yearly may be given to high school graduates of the state who qualify for entrance into a public or private college other than the state college at Fitchburg. At any one time 25 scholarships is the maximum to each of the freshman, sophomore, junior and senior classes. The maximum number of scholarships is 100 per year. The scholarship continues as long as the student remains in good standing and pursues certification as a special class teacher of the mentally retarded. No student may receive a scholarship for more than four years. (*Sec. 69-7C, Mass. Gen. Law*)*

FACILITIES

[If a city, town, or regional district received approval for a grant for construction of a school for the deaf or an addition to an existing school for the deaf, they receive a construction grant equal to 65 percent of the approved cost of construction. (*Sec. 69-28B, Mass. Gen. Law*)]

No school construction project will be approved, unless and until the school building assistance bureau and the division of special education are satisfied that adequate provisions have been made for children with special needs. (*Sec. 14, Chapter 76, 1972*)*

MICHIGAN

RIGHT TO AN EDUCATION

Constitution: "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and means of education shall forever be encouraged." (*Art. XI Sec. 1, Mich. Const.*)

"The Legislature shall continue a system of primary schools, whereby every school district in the state shall provide for the education of its pupils without charge for tuition . . . ." (*Art. XI, Sec. 9, Mich. Const.*)

Compulsory Attendance Law: Unless the parents of legal guardian of the child refuses to have the child medically or clinically examined, no child may be expelled or suspended from school because of a physical handicap unless the board of education obtains a certified statement from a physician that the child is so physically handicapped he should not attend school. No child may be excused because of a mental or emotional handicap unless the board of education has obtained a statement from a psychiatrist, a child center, or a clinic or other appropriate agency approved by the superintendent that the child is incapable of benefiting from public school attendance. (*Sec. 340.313, Mich. Stats.*)

A local board may expel or suspend any pupil guilty of persistent disobedience or gross misdemeanor if the interests of the school demand it. If there is cause to believe the pupil is handicapped and has not been evaluated, he will be immediately evaluated by the intermediate district of which the local district is a constituent. (*Sec. 613, Mich. Stats.*)

Responsibilities: Local boards may provide, and for the 1973-74 school year and thereafter shall provide, special education programs and services to develop the maximum potential of handicapped persons on its district's record under section 298c for whom appropriate education and training program can be provided under the intermediate district's plan in any of the following ways or a combination of them:

1. operate the program or service;
2. contract with its intermediate district, another intermediate district or local district, an adjacent school district in a bordering state, the Michigan schools for the deaf or blind, the department of mental health or social services, or any combination of the above, to deliver special education programs or services. Districts may also contract with a state board approved agency for the delivery of ancillary professional special education services. The local board's intermediate district must be a party to the contract even if not participating in the delivery of programs or services. (*Sec. 771a, Mich. Stats.*)

Beginning with the 1973-74 scholl and continuing thereafter, if a local district claims an emergency exists because of extreme financial conditions, insufficient operating funds, or a severe classroom shortage and that this emergency prevents it from providing special education in compliance with section 771a, the district must apply, in writing, to the state board by July 1 of that school year for approval to provide special education not complying with section 771a (*Sec. 252b, Mich. Stats.*)

In its application the district must demonstrate the need to provide noncomplying programs and services and delineate the programs and services it can provide and the efforts it will undertake to alleviate the emergency. If the state board finds an emergency does exist, it may approve the application. The filing date may be extended for good cause. (*Sec. 252b, Mich. Stats.*)

If the state board determines a district is not in compliance with Sec. 771a without prior approval, the state board is required to notify the district in writing of its noncompliance. If the district does not submit proof of compliance or of unforeseen emergency within 30 days after receipt of the notice, the state board shall direct the intermediate district of which the local district is a constituent to provide complying services and programs. The intermediate district shall provide only those programs or services not incompliance with section 771a. If an intermediate district is directed to provide programs, these programs will be funded as if conducted by a local district with the local district contributing to the intermediate district the unreimbursed cost the programs or services. (*Sec. 252b, Mich. Stats.*)

POPULATION

Definitions: " 'Handicapped persons' shall be defined by rules promulgated by the state board of education. Handicaps include, but are not limited to, mental, physical, emotional, behavioral, sensory and speech handicaps." (*Sec. 10, Act 198, Public Acts of 1971*)

Age of Eligibility: Handicapped persons are eligible for special education programs and services until age 25.

IDENTIFICATION AND PLACEMENT

Statutes contain no specific provisions for the handicapped in this area.

ADMINISTRATIVE RESPONSIBILITY

The superintendent of public instruction is responsible for establishing qualifications of all professional personnel including teachers, diagnosticians, aids, and social workers employed in programs for trainable mentally handicapped children operated by intermediate school districts. (*Sec. 317d, Mich. Stats.*)

Intermediate school districts operating programs for the trainable must comply with the requirements of the superintendent as to the establishment of services, eligibility, pupils, sizes of classes, housing, equipment, instructional programs and territory to be served before the cost of the programs may be reimbursed. (*Sec. 317e, Mich. Stats.*)

Boards of intermediate districts providing special education services may employ teachers and other personnel, provide for their transportation, purchase and maintain special education supplies, and equipment and secure proper office space and supplies. (*Sec. 317a, Mich. Stats.*)

Special education personnel must meet state board requirements and qualifications. (*Sec. 772a, Mich. Stats.*)

Curriculum, eligibility requirements for specific programs and services, review procedures regarding placement, class size, program size, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and the length and content of the school day must be in accordance with state board special education rules. (*Sec. 773a, Mich. Stats.*)

PLANNING

Beginning with the 1973-74 school year and continuing thereafter, the state board shall:

1. develop, establish, and continually evaluate and modify in cooperation with intermediate school districts a state plan for special education providing for the delivery of programs and services to develop the maximum potential of handicapped persons and coordinating all programs and services;
2. require intermediate districts to submit plans according to subdivision (a) of section 298c and approve these plans;
3. establish rules for the requirements of the plans and procedures for submitting them;
4. have submitted a preliminary plan to the legislature by July 1, 1972; and
5. submit the final plan to the legislature by March 1, 1973. The final plan shall include recommendations for funding of special education programs and services. (*Sec. 252b, Mich. Stats.*)

Intermediate boards may and for the 1973-74 school year and thereafter shall:

1. develop, establish, and continually evaluate and modify in cooperation with its constituent school districts, a special education plan providing for delivery of special education programs and services to develop to the maximum potential all handicapped persons included in number six. The plans must coordinate all special education services and programs operated or contracted for by constitutent districts and will be submitted to the state board for approval by November 1, 1972;
2. contract for the delivery of services or programs according to the intermediate plan. The intermediate district under contract may operate a special education program or service, furnish transportation and room and board;
3. employ or otherwise engage special education personnel in accordance with the district's plan and appoint a special education director meeting state board qualifications and requirements;
4. accept and use available private and governmental funds and contributions to provide appropriate special education programs and services;
5. lease, purchase, or otherwise acquire, vehicles, sites, buildings, or portions of them, and equip them as necessary for its staff, programs, and services not regarding Section 298a, subsection (1), subdivision (1);
6. maintain a record of all handicapped persons up to age 25 who have not completed a normal course of study and graduated from high school and who are residents of one of the constituent districts

and the special education programs and services in which the person is participating, if any, as of the fourth Friday following Labor Day and the Friday before Memorial Day. The only basis on which the district of residence is determined will be decided by state board regulations. (*Sec. 298c, Mich. Stats.*)

7. have the right to place in an appropriate education program any handicapped person for whom a constituent district is required to provide special education programs or services under section 771a.;

8. investigate special education programs and services conducted by or contracted for by the board or its constituent districts and report in writing to the local district and state board any matters it deems in noncompliance with any contract, statute, or rule governing the special education programs, or services or the intermediate district's plan;

9. operate, according to section 252b, or contract for the programs and services as if a local district under section 771a. The contract, providing for the items in section 771a, must have state board approval. Transportation and room and board, or both, must be provided by the intermediate boards for persons participating in programs or services conducted as if a local district under sections 601 and 601a.

10. receive a report from any parent or guardian or with the parent's or guardian's consent receive the report of a licensed physician, registered nurse, social worker, school or other appropriate professional personnel whose training and relationship to handicapped persons provides competence to judge handicapped persons and in good faith believes that a person under 25 examined by him is or may be handicapped. The board will then immediately evaluate the persons so reported in accordance with state board rules. No one making or filing such a report or seeking an evaluation will be liable to suit unless lack of good faith is proven; and

11. evaluate pupils pursuant to and in accordance with section 613. (*Sec. 298c, Mich. Stats.*)

FINANCE

Boards coming under the provisions of sections 307a to 324a are required to expend funds received under section 314a according to state board rules. (*Sec. 317a, Mich. Stats.*)

Boards operating or contracting for programs or services are entitled to carry children in membership in the same manner as local districts and shall receive their proportionate share of available state funds. State board rules shall govern the calculation of "membership." (*Sec. 318a, Mich. Stats.*)

School districts providing transportation to mentally handicapped, physically handicapped, or emotionally disturbed children may provide up to 75 percent of the costs but not exceeding $200 per pupil. Districts may receive the same reimbursement for children who are day students at the schools for the deaf and the blind. Districts providing transportation to children receiving services at the department of mental health facilities are also entitled to this reimbursement. (*Act No. 100, Public Acts of 1970*)

Districts providing programs for hearing impaired, physically handicapped, and visually handicapped children are allowed an additional amount not exceeding 75 percent of the actual cost of equipment, teachers to teach others to transcribe books into braille or books for visually handicapped children, and for expenses incurred in transcribing and recording educational materials, including machines, paper, and binding. (*Act No. 100, Public Acts of 1970*)

Intermediate school districts may receive up to 75 percent of the cost of operating programs for the trainable mentally retarded. An intermediate district may use funds not in its general or special education fund and not otherwise restricted or contributions from local school districts or individuals for the support of these programs. (*Act No. 100, Public Acts of 1970*)

Reimbursement for districts conducting special education programs and for the salaries of school social workers, school diagnosticians, physical therapists, and occupational therapists, shall not exceed 75 percent of the actual cost of salaries, exclusive of administrative and clerical salaries, but not exceeding $8,100 for any individual salary. The salaries of directors and supervisors of special education programs are also reimbursed under this section. (*Act No. 100, Public Acts of 1970*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Intermediate school districts possess all the rights of the county districts they succeeded. When constituent districts reorganize into a single district, the reorganized district is a constituent to the intermediate district designated by the board of the reorganized districts. If a decision is not made within 30 days after the effective date of the reorganization, the state board shall make the determination. By resolution of its board any constituent district may become constituent to another intermediate district to which it is contiguous if the board of each affected intermediate district approves. If the intermediate district to which annexation is proposed has adopted this chapter's special education provisions or has bonded indebtedness outstanding for special education building facilities for the trainable mentally retarded, registered electors of the district to be annexed must vote to accept these provisions and to assume a pro rata share of any bonded indebtedness outstanding for facilities for the trainable mentally retarded. An annexation becomes effective only if the applicable issues relating to special education programs, vocation-technical programs, and bonded indebtedness are approved at the same district election.

If a school district constituent to an intermediate district with a bonded indebtedness for special education facilities or vocational technical education programs is transferred to another intermediate unit, the territory of the annexed district remains as part of the intermediate district from which it transferred for levying debt retirement taxes for the bonded indebtedness until the bonds are redeemed or sufficient funds are available in debt retirement funds for that purpose. For all other purposes, the annexed district is a constituent of the intermediate district to which it was annexed. (*Sec. 292a, Mich. Stats.*)

The board of an intermediate district which has adopted the provisions of 307a to 324a and has constituent district(s) which have not yet elected to come under section 329 shall submit by the 1973-74 school year the question of adopting sections 307a to 324a. The election is called and held in the same manner provided in sections 308b and 308c for the original election adopting these sections. The ballot shall be in the form described in section 316a. (*Sec. 329c, Mich. Stats.*)

See Right to an Education—Responsibilities.

Local district contracts providing for services or programs must specifically provide for:

1. necessary special education buildings, equipment, and personnel to operate the program or service;
2. transportation or room and board, or both, as required under sections 601 and 601a;
3. contribution of the sending district in accordance with state board rules. This section should be interpreted to allow for program operation by state departments without local contribution; and
4. any other matters deemed appropriate by contracting parties. (*Sec. 771a, Mich. Stats.*)

All programs and services operated or contracted for by local districts must be in accordance with the intermediate district's plan established under section 298c. (*Sec. 771a, Mich. Stats.*)

Additional services not included or required by the plan may be provided by local districts. (*Sec. 771a, Mich. Stats.*)

Intermediate school districts may operate programs for the trainable mentally handicapped. (*Sec. 317d, Mich. Stats.*)

SERVICES

" 'Special education programs and services' as used in this act means educational and training programs and services designed for handicapped persons operated by local school districts, intermediate school districts, the Michigan school for the blind, the Michigan school for the deaf, department of mental health, department of social services, or any combination thereof, and ancillary professional services for handicapped persons rendered by agencies approved by the state board of education." (*Sec. 10, Act 198, Public Acts of 1971*)

The programs provided shall include vocational training but do not have to include college or university level academic programs. (*Sec. 10, Act 198, Public Acts of 1971*)

" 'Special Education personnel' as used in this act means persons engaged in and having professional responsibility for the training, care and education of handicapped persons in special education programs and services which include, but are not limited to, teacher aides, social workers, diagnostic personnel, physical therapists, occupational therapists, audiologists, speech pathologists, instructional media-curriculum specialists, mobility specialists, consultants, supervisors and directors." (*Sec. 11, Act 198, Public Acts of 1971*)

Local boards may presently provide, and for the 1973-74 school year and thereafter shall provide transportation by a contractual or other arrangement for handicapped persons who without such transportation would be unable to participate in an appropriate special program operated or contracted for by local districts under section 771a. These provisions do not apply to persons at the Michigan school for the blind, school for the deaf or department of mental health or social services facilities. (*Sec. 601, Mich. Stats.*)

In a similar manner to transportation local boards shall provide room and board to handicapped persons. (*Sec. 601a, Mich. Stats.*)

Local districts shall not solicit reimbursement from handicapped persons or persons otherwise liable for their care for the cost of room and board unless the person can reasonably afford to pay a portion of the costs. (*Sec. 601b, Mich. Stats.*)

PRIVATE

If districts provide auxiliary services to handicapped children in public schools, they shall provide the same services to children in non-public schools. These services include "health and nursing services and examinations . . .; speech correction services; visiting teacher services for delinquent and disturbed children; school diagnostician services for all mentally handicapped children; teacher counselor services for physically handicapped children; teacher consultant services for mentally handicapped or emotionally disturbed children; remedial reading; and such other services as may be determined by the Legislature." (*Sec. 662 Mich. Stats.*)

PERSONNEL

The department of education with the advice of the divison of exceptional children may make traineeship and fellowship grants available to persons interested in parttime or fulltime study in programs designed to qualify them as teachers and other workers in special education. To qualify for a traineeship persons must have earned at least 60 semester hours of college credit and to qualify for a fellowship one must be a graduate of a recognized university. No more than 200 grants on a fulltime basis may be given in any academic year and they may not be in amounts exceeding $1500 per academic year for traineeships and $3,000 for fellowships, except an additional amount may be allowed to an approved institution of higher learning for tuition fees. Parttime students and summer session students may be granted awards on a pro rata basis.

The department of education may contract with any approved institution in the state to offer courses required for the professional training of special education personnel and may reimburse the institution for any financial loss due to low enrollments, distance from campus, or other reasons satisfactory to the department.

Following the completion of an academic program after receipt of a traineeship or fellowship, grantees are expected to obtain within one year employment in an approved special education program in Michigan. They must continue such employment for each 1/2 year of their traineeship or fellowship. If they do not fulfill this requirement they will be required to remit to the state all of the money they received. (*Senate Bill 1182, Public Acts of 1966*)

FACILITIES

Intermediate boards providing services to the handicapped children within constituent districts may not appropriate funds to maintain or construct buildings to house special education classes unless the buildings are owned by the constituent school districts and are under the administration of the board of education of the special education center. (" 'Special education center' means a constituent school district which, by action of its board contracts with the board of intermediate district to provide special education to non-resident pupils.")

Intermediate school districts operating programs for the trainable mentally retarded may purchase, construct, lease, or otherwise acquire necessary housing and land. *(Sec. 317f, Mich. Stats.)*

By a majority vote of registered school electors within the intermediate district, voting on the question at an annual election, these districts may borrow money and issue bonds to defray all or any part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or re-equipping buildings to house the program for the trainable and other related facilities, and acquiring, repairing, developing or improving sites. No intermediate district shall issue bonds for the purposes mentioned in this section for the trainable mentally handicapped in special education for an amount greater than 1.5 percent of the total assessed valuation of the intermediate district, nor may the bonded indebtedness of any intermediate district extend beyond a period of 30 years for the money borrowed. (*Sec. 317g, Mich. Stats.*)

MINNESOTA

RIGHT TO AN EDUCATION

Constitution: "The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools." (*Art. VII, Sec. 1, Const. of State of Minn.*)

Compulsory Attendance Law: All children between the ages of seven and 17 are subject to the compulsory attendance laws and must attend a public or private school for at least nine months during the school year. A child may be excused from the requirement upon the application of his parent, guardian, or any other person having control of the child to any member of the board, truant officer, principal, or city superintendent for the whole or any part of the school year by the board of the district in which he resides, if it is shown to the satisfaction of the board that the child's bodily or mental condition is such as to prevent his attendance at school or application to study for the required period. The clerk of the school board must keep a record of the excuses. Each excuse will state the reason for the excuse, and a copy will be forwarded to the commissioner of education. (*Sec. 120.10 MSA*)

No school board may exclude, expel or excuse, without sufficient cause, any person from school privileges if he is entitled to admission as a student to the district schools. If a person has been excluded, expelled, or excused by a school board, the action of the board will be reported to the commissioner of education within 30 days. (*Sec. 127.071 MSA*)

Responsibilities: After July 1, 1972, programs for the trainable mentally retarded shall be provided either within or without the district. If the provision of such instruction, training, and services would result in hardship or injury to the child, the school board may appeal the mandatory provisions of this act to the commissioner of education who will then determine the provisions to be made by the district for the education of the child. Until July 1, 1972, districts and unorganized territories may provide for special training and services for school age trainable children. (*Sec. 120.17 MSA*)

All school districts and unorganized territories shall provide special instructions and services for educable handicapped children of school age in the district, and they may also provide special training and services.

Districts may provide special education services to those children who have not yet reached school age. Districts which have less than a minimum number of eligible handicapped children as determined by the state board regulations shall cooperate with other districts to maintain a full sequence of programs for education, training, and services for handicapped children. (*Sec. 120.17 MSA*)

POPULATION

Handicapped children in Minnesota include "every child who is deaf, hard of hearing, blind, partially seeing, crippled or who has defective speech or who is otherwise physically impaired in body, or limb, so that he needs special instruction and services, but who is educable as determined by the standards of the state board is a handicapped child.

"Every child who is mentally retarded in such degree that he needs special instruction and services but who is educable as determined by the standards of the state board is a handicapped child.

"Every child who by reason of an emotional disturbance or a special behavior problem, needs special instruction and services, but who is educable, as determined by the standards of the state board is a handicapped child.

"Every child who is mentally retarded in such degree that he requires special training and services and who is trainable as defined by standards of the state board is a trainable handicapped child." (*Sec. 120.03 MSA*)

Age of Eligibility: School age means the ages of four to 21 for children who are deaf, blind, crippled or have speech defects; ages five to 21 for mentally retarded children; and six to 21 for emotionally disturbed children. In no cases shall services extend beyond secondary school. (*Sec. 120.17 MSA*)

IDENTIFICATION AND PLACEMENT

Census: An annual school census shall be taken, including an enumeration of all children requiring special education by categories designated by the state board, and as required for reports of the commissioner of education. The school census shall show the name and date of birth of each person and the name and address of his parent or guardian or other person having control of the child and any other necessary data. (*Sec. 120.095 MSA*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for promulgating the rules and regulations relative to the qualifications of essential personnel, courses of study and training, methods of instruction and training, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and any other rules and standards necessary for instruction of handicapped children. (*Sec. 120.17 MSA*)

Though the state institutions for the deaf, blind, emotionally disturbed, and mentally retarded are under the administration of the department of public welfare, the children at the institutions are encouraged to enroll in the public schools in the district in which the institutions are located. The children will be considered as regularly enrolled in the public schools. (*Sec. 120.17 MSA*)

FINANCE

The state shall pay to any district and unorganized territory: 1) 60 percent of the salary of essential personnel involved in the educational program for the handicapped. This amount cannot exceed $5300 for the normal school year for each full-time person employed, or a prorata amount for part-time persons or those employed for a limited time, including summer school, and 2) for the employment of an individual jointly with another district or districts, or unorganized territory in its educational program for handicapped children, 60 percent of the salary of essential personnel, but not exceeding $5,300 per year for each full-time person employed. (*Sec. 124.32 MSA*)

Districts or unorganized territories will receive for purchased or rented supplies and equipment an amount equal to one-half of the sum actually expended, but not exceeding an average of $50 in one school year for each handicapped child.

When a handicapped or mentally retarded pupil cannot be transported on a regular school bus, each district or unorganized territory will be reimbursed for transportation or board or lodging and the prorated amount for summer school for mentally retarded or otherwise handicapped students when approved by the state board. Actual transportation costs may be reimbursed but not exceeding $225 annually. Treasury funds may be used to reimburse expenditures for conveying handicapped pupils between home and school and within the school plant. If school districts provide transportation for children residing within the district attending a licensed state activity center, the district is eligible for reimbursement for mentally retarded or otherwise handicapped children.

PLANNING

A state advisory board on handicapped, gifted, and exceptional children, consisting of 12 members appointed by the governor, is created to serve in an advisory capacity to the state board of education, the commissioner of public welfare, and the state board of health. The board will aid in formulating policies and encouraging programs for exceptional children. It is also responsible for continuously studying the needs of exceptional children. (*Sec. 121.34 MSA*)

When necessary to provide board and lodging for a non-resident handicapped child in a district maintaining special classes, reimbursement may be made for the actual cost of board and lodging but not exceeding $900 during the regular school year and a prorated amount for summer school. This is in addition to the reimbursement for transportation to transport the pupil from the place where he is boarded to the school building.

State aids for handicapped children will be paid to the district providing the special instruction and services. Foundation aid will be paid to the district or unorganized territory of the pupil's residence. Total amount of aid cannot exceed the actual expended amount. If the child is placed in a residential facility (approved by the commissioner and established primarily to serve handicapped children) with the specific child's educational program approved by the commissioner, the state will pay to the resident district up to 60 percent of the instructional cost to the resident district. No more than $125,000 may be spent annually for these purposes. Facilities may be approved by the commissioner under this section if: 1) they are operated by a public school district and designed to serve the low-incidence handicapped, the multiple handicapped, or the most severely handicapped children, either within or outside the state or a state residential school outside the state; 2) a private non-sectarian residential facility is designed to provide services for handicapped children, either inside or outside the state, or 3) a state hospital or private non-sectarian residential center is designed to provide care and treatment for handicapped children. (*Sec. 124.32 MSA*)

Districts will be granted for each resident pupil in average daily attendance one-half a pupil unit for handicapped pre-kindergarten pupils attending half day sessions throughout the school year. (*Sec. 124.17 MSA*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The parent or guardian of a handicapped child residing in a district not providing special instruction and services within its district may apply to the commissioner for services for his child under one of the methods provided. If the commissioner finds that the local district is not providing the services, he will arrange for the special instruction needed. If the services are provided outside the district of residence, transportation or board and lodging and tuition will be paid by the district of residence.

The tuition rate will be the actual costs of providing special services to the handicapped children, including a proportionate amount of capital outlay and debt service minus the amount of special aid for handicapped children received on behalf of that child. If the boards involved cannot agree upon a tuition rate, a board might apply to the commissioner to fix the rate. The commissioner will then set aside a date for a hearing giving each board at least 10 days' notice. After the hearing the commissioner will make his orders fixing the tuition rate which will be binding on both school districts.

Any school district, or unorganized territory or combinations thereof, may enter into an agreement to provide special instruction and services to handicapped children. One of the participating units may employ and contract with necessary personnel to offer services in the several districts or territories, and each participating unit will reimburse the employing unit a proportionate amount of the actual costs of providing the special instruction and services, less the amount of state reimbursement which will be claimed in full by the employing district.

Responsibility for special instruction and services for handicapped children temporarily placed in a district other than his district of residence will be determined in the following manner: 1) the school district of residence of the child will be the district in which his parent resides, if living, or his guardian, or the district designated by the commissioner of education, if neither the parent or guardian is living within the state; or 2) the district providing the instructional program will bill the district of the child's residence for the actual cost of providing the program as outlined above, except that the board, lodging, and treatment cost incurred on behalf of the handicapped child placed outside of his school district of residence by the commissioner of public welfare, the commissioner of corrections, or their agents for reasons other than the provision of special education needs do not become the responsibility of either the district providing the instruction or the district of the child's residence. The district of residence will pay the tuition and other program costs to the district providing the instruction, and the district of residence may claim foundation aid for the child. Special transportation costs will be paid by the district of residence. The district of residence is eligible for state transportation reimbursement. (*Sec. 120.17 MSA*)

Responsibility for special instruction and services for handicapped children placed in a state institution on a temporary basis will be determined in the following manner: 1) when the educational needs of the child can be met through the institutional program, the cost for such instruction shall be paid by the department to which the institution is assigned; 2) when it is determined that the child can benefit from public school enrollment, provision for instruction will be made in the following manner: (a) the commissioner of education and the commissioner of the department responsible for the institution will jointly determine the child's eligibility for special instruction and services; (b) the school district where the institution is located shall provide an appropriate educational program for the child and will make a tuition charge to the district of residence for the actual cost of providing the program, and 3) the district of the child's residence will pay the tuition and other program costs and may claim foundation aid for the child. The legal residence of the handicapped child for whom parental rights have been terminated by court order and who has been placed in a foster facility will be the school district in which he has been placed. The school board of the district of residence will provide the same educational program for the child as it provides for all resident handicapped children in the district. (*Sec. 120.17 MSA*)

Two or more of the independent school districts numbered 621 through 624 in Ramsey County and independent school districts 832 and 834 of Washington County may enter into an agreement to establish a special intermediate school district with a majority vote of the full membership of the board of each of the concerned districts. When the resolution is adopted by the board of one of the districts, it must be published at once in a general circulation newspaper in the district. If a petition for referendum on the question of the district entering into the agreement is filed with the clerk of the board within 60 days after publication of the resolution, and signed by 5% of the qualified voters of the district, no board is able to decide the question of whether the district shall enter into an agreement until the agreement has been submitted to the voters at a special election. If a majority of votes cast on the question within the district is in favor of the question, the board may then proceed to enter into an agreement to establish the special intermediate school district. The school district will be known as the Northeastern Metropolitan Intermediate School District, State of Minnesota. The commissioner is responsible for assigning an appropriate identification number.

The intermediate district will be responsible for furnishing to all eligible persons residing in any part of the district instruction in vocational-technical education and special education. The intermediate school board in order to pay for any administrative, planning, operating, or capital expenses is certified by the county auditor of each county as a single taxing district with the ability to levy an annual tax. (*Chapter 267, 1971*)

SERVICES

Special instruction or training or services for handicapped children may be provided by one or more of the following methods: 1) special instruction and services in connection with attending regularly elementary and school classes; 2) the establishment of special classes; 3) instruction and services at the home or bedside of the children; 4) instruction and service in other districts; 5) instruction and services in state college laboratory school, or a University of Minnesota laboratory school; 6) instruction and services in state residential school or a school department of a state institution approved by the commissioner or any other method approved by him; 7) instruction and services in other states, or 8) contracting with public, private or voluntary agencies. (*Sec. 120.17 MSA*)

PRIVATE

See Finance and Services.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

MISSISSIPPI

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the Legislature to encourage by all suitable means the promotion of intellectual, scientific, moral and agricultural improvement by establishing a uniform system of schools by taxation or otherwise, for all children between the ages of 6 and 21 years, and as soon as practicable to establish schools of higher grades." *(Art. VII, Sec. 201 Miss. Const.)*

Policy: "The purpose of this act is to provide competent educational services and equipment for exceptional children as defined in this act for whom the regular school facilities are not adequate." (*Sec. 6631-01 Miss. Stats.*)

Responsibilities: Any properly interested persons or agencies, or parents or guardians of five or more of any one type of exceptional children (or types who may be taught together) may petition the board of trustees for the establishment of a special class. The school authorities may then request the state board of education to cooperate in the establishment of such a class. (*Sec. 6631-06 Miss. Stats.*)

POPULATION

"Any child of educable and trainable mind under 21 years of age for whose particular education needs, institutional care and training are not available in this state, or who cannot pursue regular class work due to reasons of defective hearing, vision, speech, mental retardation or physical condition as determined by competent medical authorities and psychologists, shall be considered an exceptional child for purposes of this act; provided, that the medical authorities and psychologists are approved by the state board of education." *(Sec. 6631-01 Miss. Stats.)*

Age of Eligibility: Children are legally eligible for services from birth through age 21.

IDENTIFICATION AND PLACEMENT

Statutes contain no specific provision for the handicapped in this area.

ADMINISTRATIVE RESPONSIBILITY

Courses of study, teacher-pupil ratios, adequacy of methods of instruction, in-service training, qualifications of teachers and technicians, and necessary equipment for special education must comply with the requirements established by the state board of education.

The Kuhn Memorial State Hospital, a diagnostic and treatment center for the chronically ill and impaired, is under the supervision of the board of trustees of state eleemosynary institutions. (*Sec. 6930.01 and 6930.03 Miss. Stats.*)

The state board of education is empowered to foster, inspect, approve, and supervise the program of education for exceptional children. (*Sec. 6631.03 Miss. Stats.*)

The boards of trustees for the schools for the deaf and the blind are responsible for the overall administration of the educational programs within the institutions. (*Sec. 6785-03 Miss. Stats.*)

The state board of mental institutions is responsible for institutional programs for the mentally retarded and emotionally disturbed.

PLANNING

Statutes contains no specific provision for the handicapped in this area.

FINANCE

Sixty percent of a teacher unit will be authorized for each teacher employed in a special education class. The state board may also reimburse districts for any expenses incurred in transporting exceptional children. (*Sec. 6248-02 Miss. Stats.*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more school districts may join together by contract to establish a special class or classes. See Finance. (*Sec. 6631-06 Miss. Stats.*)

SERVICES

When at least five children of educable mind between the ages of six and 21 are confined in a hospital for extended period of time, these children are provided a program of education, instruction, and training. The need for the extended hospitalization must be certified by the chief of staff of the hospital, and the ability of the children to do school work must be certified by qualified psychologists and/or educators approved by the state board of education. (*Sec. 6228.3 Miss. Stats.*)

The administrative unit in which the hospital is located is responsible for the provision of the education. Classroom space, furniture, and facilities must be provided by the hospital. The hospital must enter into a contract with the local administrative unit saying that the administrative unit will provide the necessary space, furniture, and facilities as well as provide for their upkeep, fuel, and other necessary expenses for the successful operation of the program. See Finance. (*Sec. 6228.3 Miss. Stats.*)

Children who are physically handicapped or crippled may receive transportation to the public schools, regardless of the one mile transportation limitation, if the failure to provide it would result in undue hardship. (*Sec. 6336-04 Miss. Stats.*)

In a Class 1 county having a total population of more than 100,000 in the 1960 census, a total assessed valuation in excess of $60,000,000 and which borders the Gulf of Mexico and contains a federal military base, a board of education may establish a child development center for children of the county who are mentally or physically retarded or otherwise unable to attend the public school. These children include, but are not limited to, those with educable or trainable minds under age 21 and for whose particular education needs institutional care and training are not available. In addition, the child cannot be able to pursue regular classwork because of defective hearing, vision, speech, mental retardation, or physical conditions. This condition must be determined by competent medical authorities and psychologists approved by the state board. This program specifically includes, but again is not limited to, the provision for the deaf and blind under age six if early training is in accordance with the most advanced and best approved scientific methods of instruction, taking into consideration the best interests of the child and his improvement at the time during which he is most susceptible to improvement. (*Sec. 6631-31 Miss. Stats.*)

Braille print will be taught in the school for the blind. The use of this print is included in high school literary courses for students at the school. Every teacher and instructor in the state school for the deaf whose duties include the oral instruction of pupils must become acquainted with the most efficient and advanced methods of lip reading. These teachers must also be masters of the manual alphabet in order to communicate with pupils who cannot read lips in order to aid student participation in activities outside the classroom. All pupils entering the school will be given oral instruction until it is clearly determined whether they can master lip reading to the extent that satisfactory progress can be made in their studies. Manual instruction will be provided in all subjects for all pupils unable to progress under oral instruction alone. (*Sec. 6785-05 Miss. Stats.*)

PRIVATE

Children under the age of 21, who have not graduated from high school and who cannot pursue regular class work due to reasons of defective hearing, vision, speech, mental retardation, or other mental or physical conditions as determined by competent medical authorities and psychologists, are entitled to receive state financial assistance to attend parochial or private schools. (Chap. 304, 1971)

The state department of education has the authority to enforce reasonable rules and regulations and establish standards for the administration of this program consistent with the maintenance of high quality programs for the benefit of those exceptional children served. *(Chap. 304 1971)*

Financial assistance to students attending private or parochial schools is paid in the following manner: The department of education determines the amount to be paid by prescribing classifications of applicants and programs developed so that all applicants having the same classification receive equal financial assistance. Financial assistance cannot exceed the obligation actually incurred by the applicant, and no applicant will receive more than $240 per school year from available state funds. If the department disapproves an application, it must send notice to the applicant, through the parent, guardian, or person standing in loco parentis by certified mail. Then the applicant may apply, within 10 days after receiving the notice, to the state board for a hearing and must be given a prompt and fair hearing. If the application is again disapproved after the hearing, notice is again sent the applicant through the parent, guardian or person standing in loco parentis by certified mail.The applicant may, within 10 days after receiving this notice, file a petition in the chancery court of the county for a hearing on the matter on all questions of fact and of law. The petition shall be served on the state superintendent.

The board prepares a certified transcript of the record of the case for the office of the clerk of the court. The record must include a copy of the application and any official findings, orders, and rulings of the board in the case. The board shall also have 30 days after the filing of the petition to appear and file exceptions, answers, and other pleadings. The board may be granted, by order of the court, additional time for preparation of the certified transcript of the record and for appearing and filing an exception, answers, or other pleadings. After considering the law, the pleadings, and evidences that may be introduced in the case, the court may modify it or reverse the findings of the board and make issue and enter its judgment accordingly. Appeal from any such judgment shall be subject to the procedures applicable to appeals and ordinary civil action. Any person who seeks to expend any financial assistance for any purpose other than payment or reimbursement to any school shall commit a misdemeanor, and upon conviction is punished by a fine not exceeding $500 or not more than six months in jail or both. (*Chap. 304, 1971*)

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

MISSOURI

RIGHT TO AN EDUCATION

Constitution: "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state between the ages of six and twenty years." (*Article XI, Sec. 1 Mo. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements, but "a child who, to the satisfaction of the superintendent of schools of the district in which he resides, or if there is no superintendent, then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required or any part thereof. . . ." (*Sec. 167.031 Mo. Stats.*)

The compulsory attendance requirement does apply to blind and deaf children, and to educable mentally retarded and crippled children for whom special classes are provided. If instruction is provided at home it must be substantially equivalent to the instruction provided in the special classes. (*Sec. 167.041 Mo. Stats.*)

Responsibilities: Boards of education of all school districts, except school districts in any county of the first class in which a special school district has been organized, shall provide appropriate instruction for exceptional children who are educable and capable of benefiting by special education. Any six-director, urban, or metropolitan school district in a county of the first class in which a special school district has been organized shall provide appropriate instruction in remedial reading for all enrolled children. Special school districts will also provide appropriate instruction in remedial reading for enrolled children and shall also provide instruction, approved by the state board, for all categories of exceptional children. *(Sec. 178.260 Mo. Stats.)*

POPULATION

Definitions: "The term 'exceptional child' as used herein includes children who deviate from what is supposed to be average in physical, mental, emotional, or social developmental characteristics to such an extent that they require special educational services in order to develop to their maximum capacity." *(Sec. 178.260 Mo. Stats.)*

" 'Trainable mentally retarded' children are those under the age of 21 years who because of retarded intellectual development as determined by competent psychological examination cannot be educated safely and adequately in the public schools with normal children or through special educational facilities for educable mentally handicapped children, but who through training in a group setting may be expected to acquire abilities and skills that would enable them to make a more satisfactory adjustment in the home and community during adult life. As a minor indication of their trainable capacity, these children in general will have an intelligence quotient from 25 to 48." (*Sec. 162.370 Mo. Stats.*)

Age of Eligibility: Special education must be provided children between the age of six and twenty-one. Children may be enrolled in existing or approvable kindergarten programs. (*Sec. 178.260 Mo. Stats.*)

IDENTIFICATION AND PLACEMENT

Census: County superintendents of schools, under the direction of the state department of education, conduct an annual census of all children who appear to be physically or mentally handicapped. These handicapped persons under age 21 are recorded showing the name and address of parents; nature of the child's handicap and whether it is physical, mental, or emotional; how and by whom it was diagnosed; the child's attendance or non-attendance in a public, private, or state school, and any other information pertinent to maintaining a complete record.

Boards of education of all three- and six-director school districts and superintendents of all six-director school districts assist county superintendents in locating and reporting those handicapped children residing within the several county school districts. (*Sec. 167.087 Mo. Stats.*)

ADMINISTRATIVE RESPONSIBILITY

The state board is responsible for adopting standards and approving all special education programs, the number of enrolled children constituting an approved program and eligibility requirements for special education services. (*Sec. 178.270 Mo. Stats.*)

Within the division of public schools there is a special education section. The board, upon receiving the recommendation of the state commissioner of education, appoints a director of special education. (*Sec. 161.162 Mo. Stats.*)

The state board of education is responsible for determining, after proper examination and investigation, the needs of trainable mentally retarded children for special services. It also decides any questions relative to the establishment and operation of training centers, the types and kinds of training to be offered, the number and type of instructors and other necessary personnel, and establishes rules and regulations governing admission and assignment of children. (*Sec. 162.390 Mo. Stats.*)

The schools for the deaf and blind are under the authority of the section of special education of the division of public schools. The state board of education has overall governing responsibility for the schools. *(Sec. 178.010 Mo. Stats.)*

The division of mental health is responsible for administering the educational programs in the state institutions for the mentally retarded and the emotionally disturbed.

PLANNING

Statutes contain no specific provisions for handicapped in this area.

FINANCE

All school districts and special school districts operating approved special education programs receive state aid at the rate of $3,500 per year for each class enrolling mentally exceptional children; $6,000 per year for each class of physically exceptional children; $3,500 per year for each class enrolling emotionally or socially exceptional children; $3,000 per year for each professional staff member, excluding special education classroom teachers, and up to $400 per year for each homebound child receiving special services, or children receiving special services outside the special class. (*Sec. 163.151 Mo. Stats.*)

Districts serving children for less than a full day will be reimbursed on a prorated basis. State aid is granted only if the professional personnel in charge of the programs has been specially trained for working in special education and if that training is in accordance with the regulations of the board. *(Sec. 178.270 Mo. Stats.)*

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Districts may contract with nearby districts for special education services for one or more children. (*Sec. 178.260 Mo. Stats.*)

Voters in all counties may organize and create a special school district to educate and train physically and mentally handicapped children and provide vocational education for the county. If two or more counties are included in the district, services will be provided to children in all such counties. If a special district is organized, it is a political subdivision of the state and may be known as "the Special District for the Education and Training of Handicapped Children of ____________ County (or counties), Missouri," or any other name selected by the board. The district has the ability to sue and be sued, levy and collect taxes within the limits of the state constitution, issue bonds, and possesses the same corporate powers as six-director school districts, other than urban districts. Constitutional provisions and laws applicable to the organization and government of six-director school districts, other than urban school districts, are applicable to county special districts. The boundaries of the special school districts coincide with the boundaries of the county. The special school district, which can exist in addition to any other school district within the county, may provide free instruction, classes, and schools for resident children under age 21 "who are physicially or mentally handicapped, including the blind or partially seeing, the deaf or hard of hearing, the crippled, and the mentally retarded or mentally deficient, who are capable of instruction or training and for other categories of physically or mentally handicapped children which are hereafter approved for special instruction by the state commissioner of education, including hyperkinetic children; those of the type having a malfunction in the area of behavior and learning where the brain does not function correctly because of immaturity on a genetic or metabolic basis and children having a word blindness, seizures and aphasic." (*Sec. 178.640 Mo. Stats.*)

The board of education of a special school district may establish schools or classes within the schools of any district within the county for any of the children designated above. Classes are established in classrooms furnished by the school districts when requested by the board of directors of any of the individual school districts and when there are a sufficient number of children available. All construction costs are paid by the special school district. Children attending the schools and classes of the special district are included in the attendance records of the district for state aid purposes. The special school district is entitled to the same reimbursements as six-director school districts, although the tax levies of special districts are less.

Transporation may be provided by the special school district to all handicapped children receiving special education services. (*Sec. 178.710 Mo. Stats.*)

The special school district may contract with any other school district in the county to establish a special class in a school of that district in order to integrate children into regular classes on a part time basis. The special school district will pay a tuition rate based on the percentage of time the child is in the regular class. (*Sec. 178.740 Mo. Stats.*)

SERVICES

If any child cannot economically, safely, or conveniently attend classes, home instruction may be provided. Regulations for home instruction will be established by the state board of education. (*Sec. 178.260 Mo. Stats.*)

Boards of education may provide transportation to and from school for all exceptional children who could not otherwise attend. State aid is provided for such transportation. (*Sec. 178.250 Mo. Stats.*)

The state board of education is responsible for formulating plans and for establishing in any county or district composed of two or more counties training centers for trainable mentally retarded children whom the state board determines are capable of profiting by specialized instruction. (*Sec. 162.380 Mo. Stats.*)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

MONTANA

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the Legislative Assembly of Montana to establish and maintain a general, uniform, and thorough system of public, free common schools." *(Art. XI, Sec. 1, Mont. Const.)*

"Provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said State of Montana and free from sectarian control." (*Ordinance I, Sec. 4, Mont. Const.*)

Compulsory Attendance Law: A child between the ages of seven and 16 (and who has completed the eighth grade) will be exempted from the compulsory school attendance provisions "upon satisfactorily showing that the bodily and mental condition of the child does not permit his attendance at school." (*Sec. 75-2901 RCM*)

Local boards do have the right to exclude persons of severe delinquent behavior. (*Sec. 75-5003 RCM*)

Responsibilities: The parents or guardians of four or more educable or trainable mentally retarded children or physically handicapped children of one type living in one town or neighboring towns where children can easily be brought together to form a special class may petition the district board or boards of trustees to establish a special teaching program. The district board or boards of trustees shall then request the state board of education for any assistance the board of education considers appropriate in the organization of such a program. (*Sec. 75-5005 RCM*)

The board of trustees, responsible for the operation of any school district, may establish special education classes if there are not less than four educable mentally retarded or physically handicapped children in the district. If there are at least 10 educable mentally retarded, trainable mentally retarded, or physically handicapped children in the district, the board of trustees shall maintain at least one special class for educable mentally retarded, trainable mentally retarded, or physically handicapped children. (*Sec. 75-5003 RCM*)

The public schools assume responsibility for educable and trainable mentally retarded children. (*Sec. 75-5001 RCM*)

POPULATION

Definitions: Handicapped children are defined as follows:

"(a) Mentally retarded children are children who are not capable of profiting from a general educational program of the public schools. These children may be considered in three groups as follows:

(1) Educable mentally retarded. Those children who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected from an 11 year old, but not less than that of a seven year old;

(2) Trainable mentally retarded. Those children who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected of a seven year old and who, for entrance into a training program, are capable of walking, of clean bodily habits, and of obedience to simple commands;

(3) Custodial mentally retarded. Those children who do not show a likelihood of attaining clean bodily habits, responsiveness to directions, or means of intelligible communication."

"(b) Physically handicapped children are those children who are capable of profiting from the general education program of the public schools, but who need special equipment, special services, and transportation to compensate for such physical handicaps as cardiac, cerebral palsy, or other physical handicaps including inadequate speech, hearing and vision, which makes them unable to profit from the normal education processes without some special provision. Nothing herein shall be construed to interfere with the purpose and function of the school for the deaf and blind in Great Falls." (*Sec. 75-5001 RCM*)

Age of Eligibility: Services may be provided to the physically handicapped and the educable mentally retarded from birth to age 25, and to the trainable from birth to age 21. (*Sec. 75-5001 RCM*)

IDENTIFICATION AND PLACEMENT

Census: At the time of the annual school census, the clerk of the school districts within each county with the aid of the public health nurse, school nurse, or public health medical officer should attempt to ascertain the names of all handicapped children in the district and any information concerning them required by the state superintendent of public instruction. The survey of handicapped children does not need to be conducted annually, but must be made at least once every four years at the time of the annual school census, as directed by the state superintendent of public instruction in cooperation with the state board of health. (*Sec. 75-1904 RCM*)

Special Education Evaluation: No mentally handicapped child can be deprived of school privileges without the express approval of the state superintendent of public instruction, acting upon appropriate medical, psychiatric, or psychological advice. All children so excluded must be brought to the immediate attention of the local welfare department and the proper authorities of the state training school charged with the responsibility of providing adequate training, protection, and care, as far as parents are willing to accept these services. (*Sec. 75-5004 RCM*)

The determination of children requiring special education or the type of education needed by these children is the responsibility of the state superintendent of public instruction in cooperation with appropriate medical, psychiatric, and psychological advice. (*Sec. 75-5003 RCM*)

The state board of health shall provide the medical, psychiatric, and psychological services necessary to assist the state superintendent of public instruction in diagnosing, recommending care, or passing upon the eligibility of children for admission to or discharge from special education programs for the mentally handicapped. (*Sec. 75-5006 RCM*)

ADMINISTRATIVE RESPONSIBILITY

The state superintendent of public instruction, with the approval of the state board of education, is responsible for establishing regulations and prescribing the necessary qualifications for teachers of mentally handicapped children. The state superintendent, with the assistance of the state board of health and with the approval of the state board of education, is responsible for directing and supervising special education programs for mentally and physically handicapped children. He also appoints a supervisor for special education.

The state superintendent is the agent for cooperation and consultation with federal agencies, other agencies, and private bodies on public school education for mentally and physically handicapped children, reserving to other agencies the full responsibilities of other aspects of the care of such children. Courses of study, sizes of classes, adequacy of instructional methods, the distances to be traveled to each school or class, and the necessary equipment for special services for mentally and physically handicapped children must comply with the requirements prescribed by the state board of education. (*Sec. 75-5006 RCM*)

The state superintendent of public instruction, with the approval of the state board of education, is responsible for preparing the courses of instruction in the discovery and education of exceptional children. (*Sec. 75-1402 RCM*)

The supervisor for special education must be a graduate of a four-year accredited institution of higher learning with a master's degree representing at least one year of post graduate training in exceptional child care, guidance, and testing and, in addition, two years' experience in the same. (*Sec. 75-1403 RCM*)

The supervisor shall be responsible for "discovering the exceptional child throughout the state by observation, examination, and by intelligence, emotional, and achievement tests, and any other methods deemed necessary and expedient by him and to administer an educational program for exceptional children and supervise subjects and methods used in the classrooms and schools affecting exceptional children." Provisions of this act are not mandatory on any school or school district.

The supervisor is also responsible for seeing that the necessary courses of instruction are available for all teachers in training and inservice. He may recommend ungraded classrooms in schools, and "he may hold conferences, cooperate, advise, and investigate the school superintendents, principals, school faculties, individual teachers, parents, school boards, and other interested groups in person. He may also suggest physical examinations and perform any other duties not speicifed by this act but directed to him by the state board of education or by the state superintendent." (*Sec. 75-1404 RCM*)

The state department of institutions is responsible for administering the institutions for the mentally retarded. (*Sec. 80-1401 RCM*)

The state board of education is responsible for the state school for the deaf and the blind. (*Sec. 75-301 RCM*)

The department of institutions has control of the schools for the emotionally disturbed.

PLANNING

The superintendent of public instruction may appoint a volunteer board of various exceptional child specialists, to whom the supervisor of special education shall, periodically as directed by the state superintendent of public instruction, report and from whom he may receive counsel. (*Sec. 75-1405 RCM*)

FINANCE

State reimbursement for an approved in-school class having seven or more handicapped students is computed on the basis of 45 in average number belonging (ANB).

If a class has less than seven students, the ANB will be computed on the basis of the number of students at a rate not exceeding six ANB per student, but no classes with less than four children will be approved.

For other approved special education programs such as speech and hearing therapy, home and hospital tutoring, school-to-home telephone communication, or other individual programs, the ANB will be computed according to a schedule prepared by the state superintendent on the basis of the time required and the degree of special education provided. In these cases, the ANB cannot exceed six for each exceptional child enrolled in the program.

The state superintendent establishes a schedule for transportation reimbursement. These expenditures are added to the transportation budget of the district. The state will reimburse two-thirds of the approved transportation, and the county will reimburse the remainder of approved transportation according to the schedule.

If a special education class or program is to be offered for the first time and has been approved by the state superintendent prior to the adoption of a preliminary budget, the board of trustees of a local district may include in the budget the number anticipated to be the eligible ANB, subject to the approval of the state superintendent.

If a child is sent to an institution supported completely by state funds, the child's home district or county is required to pay tuition for the child if while at the institution he attends public school classes in another district. (*Sec. 75-5003 RCM*)

The board of county commissioners of any school district providing special education services for crippled children may levy a tax not exceeding one mill on the dollar on all taxable property within the district in addition to all other levies for school purposes. This tax would be used for the support and maintenance of special education services to crippled children, but the board of school trustees of the district requiring such a tax must call an election in the manner prescribed by law for extra levies to obtain the approval of the district to make the levy. The election must be held before July 1. (*Sec. 75-1406 RCM*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more districts may combine to provide educational services to handicapped children. Also, the board of trustees in a local district may arrange to use the services of any approved mentally retarded or physically handicapped children's classes and may provide transportation to and from school for all handicapped enrolled in a state approved special education program. (*Sec. 75-5003 RCM*)

If a child who is mentally retarded, physically handicapped, or both is enrolled in a state approved program maintained by an elementary or high school district other than his district of residence, he will be included in the computation of ANB in the district maintaining the program. The child's district of residence will pay to the district twice the tuition for regular education students. (*Sec. 75-0003 RCM*)

SERVICES

The school board in all districts shall conduct, with the approval of superintendent of public instruction, special schools for the instruction of children who cannot profitably or properly be cared for in the usual schools. Any child of school age whose conduct and habits are such that he cannot with profit to himself or justice to the other members of the school be restrained and instructed in the usual schools may, upon complaint to the person having legal control of the child, the principal or head of the school where the child is attending, or the truant officer be required by the superintendent of schools where he is enrolled to attend a special school as provided in this section until the child's habits and conduct become such as to make it advisable and proper for him to be received again in the usual school. (*Sec. 75-6310 RCM*)

The board of trustees responsible for the operation of any public school may establish special education programs for educable and trainable mentally retarded and physically handicapped children under age six when the superintendent of public instruction has determined that such programs will: 1) enable a child to achieve levels of confidence that he will be able to profit from a general education program which he could not do without a special education program; 2) permit the conservation or early acquisition of skills that will tend to provide the child with equal opportunity to take his place with normal children in a general education program, or 3) provide other demonstrated educational advantages that will materially benefit the child. (*Sec. 75-5001 RCM*)

The board of trustees of any school district may provide, at its discretion, services for the education of crippled children between the ages of five and 16 who because of their physical handicaps cannot attend regular public school classes. The board may furnish home tutorial service, or transportation to and from school facilities locally or elsewhere in the state that best meet the child's needs. This decision will be reached by the local board of trustees together with the superintendent of schools based upon recommendations of the division of crippled children's services and the state board of health. (*Sec. 75-1406 RCM*)

All children entitled to attend the state school for the deaf and blind may attend such school until they attain age 21. There is no lower age limit. (*Sec. 80-105 and 80-107 RCM*)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

NEBRASKA

RIGHT TO AN EDUCATION

Constitution: ". . . it shall be the duty of the Legislature to pass suitable laws . . . to encourage schools and the means of instruction." (*Art. I, Sec. 4, Neb. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements.

Compulsory attendance laws do not apply to children who are physically or mentally incapacitated for the work done in school. (*RSN 79-202*)

When an exemption from the compulsory attendance laws is claimed because of mental or physical incapacity, school boards have the right to employ a physician or persons skilled in mental diagnosis to examine the child. If the physician or person skilled in mental diagnosis declares that the child is capable of undertaking the work of the school, then such child is not exempt from the requirements of the compulsory attendance laws. (*RSN 79-203*)

All children between the ages of seven and 16 years of age who, because of partial or total blindness, are unable to obtain an education in the public, private, denominational, or parochial schools of the state, shall be required to attend the Nebraska School for the Deaf or School for the Blind until graduated or discharged by the superintendent, unless they are not eligible for admission to the school because of reasons of mental or physical incapacity. (*RSN 79-204*)

Responsibilities: All school districts, which have trainable mentally retarded or physically handicapped children residing in the district who are not receiving special education and training programs, shall provide education and training for these children. If a district is not actually furnishing the appropriated program, they may contract with another district to furnish the program if requested by parents or guardians of the children. (*RSN 43-628*)

The board of each school district shall or upon the request of the school district, the educational service unit provide for the education and training of all trainable mentally retarded children who are residents of the school district or unit. (*RSN 43-613*)

It shall be the duty of the board of education in every school district to provide educational opportunities for handicapped children. (*RSN 43-605*)

POPULATION

Definitions: " 'Handicapped children' shall mean either physically handicapped, educable mentally handicapped, emotionally disturbed, and specific learning disability children.

" 'Physically handicapped children' shall mean all children of sound mind:

a) who are residents of Nebraska;

b) who are below the age 21;

c) who are crippled, visually handicapped, acoustically handicapped, defective in speech, cardiopathic, tubercular, cerebral palsied, orthopedically handicapped, or otherwise physically handicapped; and

d) by reason of their physical defects, are unable to attend regular public school classes, are not physically adapted to hold full-time membership in regular school facilities, or who, in order to profit from regular school instruction, need facilities and procedures not available in the regular public school classes attended by physically normal children; provided, that sections 43-604 and 43-611 shall not apply to visually handicapped, deaf, or other groups of physically afflicted children for whose education there are special statutory provisions in force in the state of Nebraska unless otherwise approved by the commissioner of education.

" 'Educable mentally handicapped' shall mean children of school age who, because of retarded intellectual development as determined by individual psychological examination, are incapable of being educated profitably and efficiently through the use of ordinary classroom facilities and procedures, but who may be expected to benefit from special educational facilities and methods designed to make them socially adjusted and economically useful.

" 'Sound mind' shall mean sufficient mentality to render treatment and education feasible. This includes the physically handicapped child with mental retardation if, in the opinion of the examining physician and the educational psychologist, the child's condition can be improved materially by education and treatment.

" 'Emotionally disturbed' shall mean children with behavioral disorders variously designated as neurotic, psychotic, or character disordered, and whose inabilities may manifest themselves in school accomplishment, social relationships, or feelings of self adequacy and may result both from experience or biological limitations."

" 'Orthopedically handicapped children' shall mean those whose locomotion, mobility, or use of limbs is impaired by crippling by (a) congenital anomaly, (b) birth injury, (c) trauma, (d) tumor, (e) infection, (f) disease, or (g) other conditions such as fragile bones or cardiac impairment." (*RSN 43-604*)

" 'Learning disabled children' shall mean those children who manifest significant educational discrepancy between their estimated intellectual potential and their actual level of performance in one or more of the processes of language, perception, reading, spelling, arithmetic, or writing, which may or may not be accompanied by demonstrable central nervous system dysfunctions or behavioral disturbances. Such terms shall not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps of mental retardation, emotional disturbance, environmental, or other problems otherwise provided for in this section."

"The 'trainable mentally retarded child' shall mean a child who is mentally retarded, but who as indicated by a diagnostic evaluation, including an individual psychological examination administered by a person holding valid Nebraska examiner's credentials for administering psychological examinations as issued by the state department of education, is determined to have the potentialities for training or learning in the areas of self-care, social adjustment to his immediate surroundings, and vocationally related activity which will contribute to his economic usefulness in the home or in a specialized situation providing for activities such as sheltered work experience and a supervised living environment." (*RSN 43-612*)

When services are provided by local school boards in day schools for the deaf, a deaf child shall be defined as "[a] ny person of sound mind who by reason of defective hearing cannot profitably be educated in the public schools as other children are, shall be considered deaf." (*RSN 79-1414*)

Age of Eligibility: Handicapped children are eligible for services between the ages of five and 21.

Deaf-blind children are eligible for services from birth through age 21.

In the special program for the deaf-blind, the age of eligibility may be extended past 21 for "such meritorious deaf and visually handicapped pupils recommended by the commissioner of education, principal or chief officer of the school which they attend." (*RSN 43-601*)

IDENTIFICATION AND PLACEMENT

Census: Within 10 days prior to the annual district meeting or school election, the secretary of the school board shall conduct a census of the district including a list in writing of the names of all children under 21 years of age and the names of all taxpayers. The listing of children shall separately identify the mentally and physically handicapped. A classification of mentally handicapped may be made only by a licensed psychologist or practitioner of medicine and surgery. A copy of the list shall be forwarded to the county superintendent.

The board of education of a Class IV school district may establish a permanent and continuing census of school children. In a Class IV school district, the list of all children and taxpayers does not have to be reported to the county superintendent, but the names of all children under 21 years of age must be kept in a depository maintained by the school district, subject to inspection at all times. Names of all taxpayers do not have to be included. (*RSN 79-458*)

County superintendents must take a census of all children presumed to be in the trainable mentally retarded population. By July 1 of each year county superintendents must notify the county board of the number of children presumed to be trainable mentally retarded and enrolled in public schools or an educational service unit in programs for the trainable. (*RSN 43-613*)

All school census enumerators shall register the name, age, sex, nationality, and residence of parent or guardian as well as a brief statement of the physical condition of all crippled children from birth to age 21. These shall be recorded by the county superintendent of schools who then reports to the commissioner of education. The commissioner, after tabulating the results for the whole state, forwards a copy of the census to the department of public welfare or any other state commission, board, or division having supervision of crippled children. At the discretion of the commissioner, a copy of the census may be furnished upon request to any voluntary state organization doing work for crippled children. (*RSN Sec. 71-14-6*)

All county superintendents must annually report by July 15 to the superintendents of the school for the deaf and the school for the blind, all deaf or blind children residing in their districts. (*RSN 79-318*).

Special Education Evaluation: Superintendents, principals, teachers, members of the board of education and board of trustees, or a parent or guardian of a handicapped child may apply to the superintendent of schools if the child resides in a high school district, or to the county superintendent of schools, otherwise, for an application for special instruction. (*RSN 43-608*)

All county superintendents must annually report by July 15 to the superintendents of the school for the deaf and the school for the blind, all deaf or blind children residing in their districts.

ADMINISTRATIVE RESPONSIBILITY

The state department of education shall adopt all rules and regulations necessary for administering programs for trainable mentally retarded. (*RSN 43-628*)

The state department of education shall have the general control of all educational programs for acoustically handicapped persons including programs at the Nebraska School for the Deaf. (*RSN 79-1901*)

The department of public institutions is in general control of the Beatrice State Home for the mentally retarded, and the hospitals for the mentally ill and tubercular, and all charitable and penal institutions except the Home for Children. (*RSN 83-108 and 83-217*)

The director of public welfare, on behalf of physically and mentally handicapped children, is responsible for obtaining admission to state schools and other suitable schools, hospitals, and other institutions. The director may provide for care in their own homes, or in free boarding homes and for medical supervision, including for any crippled child in need, necessary medical or surgical care in a suitable hospital, sanatorium, preventorium, or any other institution or in his own home. The director may pay for such care from public funds, if necessary. (*RSN 43-507*)

"If a delinquent, defective or physically handicapped child" is released from a state institution, the director of public welfare is responsible for ascertaining the conditions of the home and the character and habits of the parents of the child and making any recommendations as to the advisability of returning the child home." (*RSN 43-508*)

The state department of education is authorized to set up residential schools for mentally retarded children under their own control. (*RSN 43-617*)

The state department of education, in administering the provisions of residential schools for the trainable mentally retarded set up by local governing bodies, shall consult with the department of welfare and the department of health to obtain assistance and guidance. (*RSN 43-623*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

The school board in a school district in which handicapped children reside must include in its annual budget a sum for each handicapped child at least equal to the regular per pupil cost in the schools of the district. After an amount equal to the regular per pupil cost has been expended for the education and therapy of handicapped children, the school district qualifies for state aid for the handicapped. After approval by the commissioner of education, the state aid is provided to the servicing school district educational service unit, state school, or public agency for education of physically handicapped, educable mentally handicapped, and emotionally disturbed children for the actual excess costs but not exceeding the following amounts:

1. physically handicapped children–$600 per pupil;
2. educable mentally handicapped–$300 per pupil;
3. emotionally disturbed children–$600 per pupil.

In no instance shall the total amount of state aid and the district's share exceed the actual per pupil cost of a special education program for the servicing district or $4,500 per teacher or therapist holding a valid pre-standard or provisional certificate, or $5,000 per teacher or therapist holding a valid standard certificate, or $6,000 per teacher or therapist holding a valid professional certificate, whichever is the lesser. (*RSN 43-609*)

The cost of programs for the trainable mentally retarded children will be reimbursed in the following manner:

1. the school district in which the child resides shall pay $400 per year for each child;
2. the county in which the child resides shall pay $400 a year for each child;
3. the state of Nebraska shall pay $400 a year for each child, and
4. in programs administered by an educational service unit in whose area the child resides, the educational service unit shall pay the difference between the per pupil cost of the trainable program and the sum of payments made by the resident school district, county, and the state. In programs administered by agencies other than the local education service unit, the excess cost shall be paid for by the district of residence of the child. If a county has withdrawn from the educational service unit, the payment shall be paid by the county, rather than the educational service unit. If the per pupil cost of the program is less than the combined contributions of the school district, county, and state, the contributions of each shall then be reduced on a pro rata basis. The per pupil cost in the trainable program will be determined by dividing the operational and capital outlay cost of the program, plus three percent depreciation on the portion of the school plant used exclusively for a program by the number of children enrolled in the program. (*RSN 43-613*)

The contributions of the county, the school district of residence, and the educational service unit will be made directly to the school district or educational service unit providing the program. The state contribution of $400 will be paid directly to the school district educational service unit in which the child is enrolled. The state payment may be augmented through the division of rehabilitation services as a result of cooperative planning with the servicing school district or education service unit. (*RSN 43-613*)

No funds of any county, state or local government may be expended for the purpose of providing wages for trainable mentally retarded children engaged in vocational training programs. (*RSN 43-628*)

If a trainable child attends a program in another school district, the district of residence shall pay an amount not exceeding $400 to the parent or guardian per year for transportation expenses. Payments are made at the completion of the school year. Any parent or guardian, who has more than one trainable child under his custody or control, is limited to an aggregate amount of $400 for transportation and expenses if the children are attending a program at the same location. (*RSN 43-628*)

The state department of education may grant funds to school districts or educational service units for transportation, instructional aids, and consultative, supervisory, research, and testing services to local school districts; salaries; wages; maintenance; supplies; travel; and other expenses necessary to carry out the provisions for special education. (*RSN 43-611*)

Any child sent to any institution or school for the deaf and the visually handicapped shall have expenses paid for instruction and support, including necessary travel expenses where the daily levy is paid by the state. Parents or guardians of such children who are wholly or partially able to provide for the support and care may be required by the state board of education to reimburse the state. (*RSN 43-601*)

Residential schools set up by the local governing body and/or bodies for the trainable mentally retarded are eligible for the same county, state and district of residence contributions as day school programs for the trainable. (*RSN 43-620*)

The facilities for the residential schools must be made available without cost to the state. (*RSN 43-610*)

Unless parents are unable to pay for clothing and transportation, parents of children attending the Nebraska School for the Deaf and the School for Blind will assume these costs. If the parents are unable to pay, these costs will be paid for from the county general fund of the child's district of residence. (*RSN 79-1908 and 79-2007*)

The state board of education is authorized to accept, on behalf of the state school for the visually handicapped, the school for the deaf, and on behalf of any school for mentally retarded children exclusively owned by the state and under control and supervision of the state, donations of real property or bequests for other property or both, if in its judgment any such device, donation, or bequest is for the best interest of any school or attending student. (*RSN 79-328*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

State funds for handicapped children may not be spent out of state, except in a special program for the deaf-blind, or other severely multi-handicapped.

Within the state, the county board may appropriate by a majority vote, from the county general fund to the office of the county school superintendent monies to establish a revolving fund to set up a program of special education for educable handicapped children in the county. This fund will be reimbursed from the local school districts in the county by those desiring to participate in the program. Participation is on the basis of a contract between the school district and the county superintendent including the liability of the district and the time and manner of paying the same. The county superintendent may incur no liability against county funds nor expend any of the same unless proper reimbursement is insured on the basis of written contracts with the participating school districts. (*RSN 43-202*)

The board of each educational service unit in cooperation with local boards of education is responsible for providing within each geographical area, supplementary services such as guidance and counseling, remedial instruction, special education, and instructional materials services. The boards are also responsible for planning and coordinating services within their own geographical area whenever services are offered on a cooperative basis between local school districts and for contracting for educational services with the board of any other educational service unit, any other educational agency, or with any other appropriate state or federal agency or office. (*RSN 79-208*)

School districts not part of an educational service unit may contract for services for trainable mentally retarded children with the educational service unit of which they would be a part if the county in which they are located had not been excluded pursuant to law. (*RSN 43-615*)

Districts not providing programs may contract with any other district or educational service unit for the provision of services to trainable mentally retarded. (*RSN 43-615*)

The county superintendent of schools may use high school tuition money to provide educational opportunities for handicapped students residing in districts not maintaining a high school. (*RSN 43-606*)

The board of regents of the University of Nebraska may cooperate with public or private agencies engaged in the care and rehabilitation of any handicapped children to make available an interchange of facilities and treatment services under terms agreed upon by the board of regents of their several agencies, desiring the use of any such land. (*RSN 85-179*)

SERVICES

The state department of education is authorized to establish residential schools for the mentally retarded. The schools will be under the complete control and supervision of the state department of education. (*RSN 83-246 to 83-248*)

The Nebraska School for the Visually Handicapped is the state resource center for all education programs for visually handicapped children. It provides services such as in-service training of teachers, itinerant teaching, counseling, services, equipment, books, and learning media to local school districts and educational service units. (*RSN 79-2002*)

Whenever a physically handicapped, educable or trainable mentally handicapped or emotionally disturbed child is forced to temporarily leave the school district of which he is a resident to secure special education or treatment in a residential facility, boarding home, or foster home for the duration of special education or treatment, the parent or guardian of the child shall provide for the cost of food and lodging. This is done unless the parent or guardian has filed an affidavit or other satisfactory evidence to the county board, showing that he is not possessed of an estate or sufficient income to pay for the food and lodging without depriving himself or others dependent upon him of reasonable support and maintenance.

After filing the affidavit, the county shall provide the funds for the food and lodging of the child during the duration of his special education or treatment. This section does not apply to children who are enrolled in the state school for the deaf or the school for the blind. (*RSN 43-626 and 43-627*)

Education and training provided to the trainable mentally retarded, may include programs for the development of self realization, social awareness, economic usefulness, and civic responsibility. In order to carry out the provisions of this act, the governing boards of each school district, or educational service unit shall provide, as part of the education and training of the trainable mentally retarded and at no profit to the school district or educational service unit, vocationally related activities. (*RSN 43-613*)

Boards of education shall furnish one of the following types of education to resident handicapped children:

1. They may pay the per pupil cost of programs in any other district or educational service unit and provide for transportation expenses. Parents may be reimbursed for transportation expenses up to $400 per year. If a parent has more than one handicapped child enrolled in a program at the same location, the aggregate amount of payments may not exceed $400.

2. They may provide for transportation expenses within the school district for deaf, visually handicapped, orthopedically handicapped, trainable mentally retarded, seriously emotionally disturbed,

specific learning disability, or other handicapped children enrolled in a special program in the district, and for whom transportation is required. A parent or guardian transporting a child is paid for each day for attendance $.40 per mile for each mile between the residence and the school, but not exceeding $400 per year. If the parent or guardian has more than one child enrolled in a program at the same location, the aggregate amount will not exceed $400.

3. Districts might also provide for transporting children enrolled in the Nebraska School for the Deaf or the School for the Visually Handicapped by reimbursing parents or guardian for expenses. This reimbursement is paid at the rate of $.40 per mile for the distance between the place of the residence and the state operated school. The payment to the parent or guardian shall be limited to an amount determined by no more than five trips per year and not to exceed $400 per year. Payment to the parent or guardian of a deaf or visually handicapped child transporting the child daily is limited to the number of days of attendance. Any parent or guardian having more than one deaf or visually handicapped child shall be limited to an aggregate amount not exceeding payment based upon the transportation of one child enrolled in the state operated school for the deaf and visually handicapped the greatest distance from his place of residence but not exceeding $400 per year.
4. Visiting teachers for the homebound.
5. Correspondence instruction approved by the commissioner; or
6. Any other method of instruction approved by the commissioner. (*RSN 43-607*)

School districts not conducting adequate programs for the trainable may contract with another school district, educational service unit, public agency, or nonprofit private corporation to provide appropriate services. (*RSN 43-613*)

Teachers in local day schools for the deaf are employed as other public school teachers are employed. All such persons appointed to teach in the schools must have had special training for teaching and shall be graduates of the training for teachers of the deaf by the oral method and must meet the qualifications required by law of a teacher and any other training requirements as may be established by the board of education. The "so-called oral method shall be used by such teachers and if, after a fair trial of nine months, any child, for any reason, shall be unable to learn such oral method, no further expense shall be incurred in the effort to teach such child." (*RSN 79-1413*)

The department of public institutions may provide educational services to those persons unable to attend the school for the visually handicapped. (*RSN 83-210*)

School boards conducting such schools must annually report to the department of education such facts concerning the school as it may require. (*RSB 79-1410*)

At state expense, a program for the care of deaf-blind and other severely multi-handicapped children is established. Liable expenses under this program, including the mother-teachers, and maintenance of the mother-teachers and any deaf-blind or other severely multi-handicapped children. These children may be sent to any school or institution in the United States maintaining an accredited school or department for those children. Pupils receiving services under this program cannot be withdrawn from the program without the consent of the commissioner or state board of education. (*RSN 43-626*)

Public school districts, combinations of public school districts and educational service units, and combinations of educational service units have the authority to set up one or more approved residential schools for the trainable mentally handicapped. Supervision of these schools will be under the governing body or bodies which set them up. They must comply with the rules and regulations adopted by the state department of education. (*RSN 43-620*)

The teachers, or teachers in charge of any special programs and local residential schools for the trainable, must be qualified in the training and education of such children. All other personnel known as teacher aides shall have any qualifications that the governing body of the school prescribes, and for at least three but not more than six days in each year, participate in training activities designed and made available through the state department of education. Wherever possible, no more than three children may be assigned to one teacher aide, and each qualified teacher shall be responsible for supervising no more than five teacher aides. (*RSN 43-625*)

Nothing prevents any administrative unit from utilizing their own funds to establish pre-kindergarten programs. (*RSN 79444*)

Local boards, with department approval, may establish special schools to instruct children who cannot profitably or properly be cared for in regular schools. School age children who are habitually truant or incorrigible or whose conduct and habits are such that they cannot with profit to themselves or in justice to the school be retained or instructed in the usual schools, may, upon complaint of: 1) the person having legal or actual control of the child; 2) the principal or head of the school that the child is attending; or 3) the attendance officer, be required to attend a special school until their habits and conduct allow them to be received in the usual schools. These schools must be as good in conveniences, equipment, and conditions of health as other schools in the district, and the teachers must be prepared by training and experience to instruct such children. (*RSN 79-212*)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

The state department, cooperating with institutions of higher education and regional and local educational agencies, is authorized to develop and coordinate the implementation of a program to academically prepare resource personnel. (*RSN 43-604*)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

NEVADA

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year. . . ." (*Art. XI, Sec. 2, Nev. Const.*)

Compulsory Attendance Law: All children between the ages of seven and 18 must attend school, but such attendance will be excused when satisfactory evidence is presented (to the board of school trustees of the school district in which a child resides) that the child's bodily or mental condition or attitude is such to prevent or render inadvisable the child's attendance at the school or application to study. A certificate in writing from any reputable physician filed with the board stating that the child is unable to attend school or his attendance is inadvisable must be taken as satisfactory evidence by the board. (*NRS Sec. 392.050*)

Responsibilities: The board of trustees of a school district shall make the special provisions necessary for the education of physically handicapped or mentally retarded minors. If it is impossible for a board of trustees to comply with the mandatory requirement of this act because the number of physically handicapped and mentally retarded minors within the school district is so small, the distance to one of the public schools is too great, or the services of a qualified teacher may not be obtained, the mandatory requirement of this provision shall not apply to the district. Further, no school district shall have to make special provisions for the education of the physically handicapped or mentally retarded minors in excess of the number determined to be 2.5 percent of the total pupil enrollment of the school district. (*NRS Sec. 388.450*)

Any school district furnishing education to physically or mentally handicapped children shall furnish such education to any resident handicapped minor of the school district. (*NRS Sec. 388.480*)

POPULATION

Definitions: " 'Physically or mentally handicapped minors' . . . means a physically or mentally defective handicapped person under the age of 21 who is in need of education. Any minor by reason of physical or mental impairment who cannot receive the full benefit of ordinary educational facilities shall be considered a physically or mentally handicapped individual for the purposes of this act. Minors with vision, hearing, speech, orthopedic, mental, and neurological disorders or defects or any disabling condition caused by accident, injury, or disease shall be considered as being physically or mentally handicapped." (*NRS Sec. 388.440*)

Age of Eligibility: Physically and mentally handicapped children may be admitted into special programs at the age of three. Their attendance will be counted for apportionment purposes as if they were already six years of age. Aurally handicapped minors may be admitted at any age to special schools or classes, and their attendance (for apportionment purposes) will be counted as if they were already age six. (*NRS Sec. 388.490*)

IDENTIFICATION AND PLACEMENT

Screening: All teachers in the public schools shall observe and inspect, separately and carefully, every child under their care for evidence and/or symptoms of visual, auditory, or physical defects. In cases where defects are believed to exist, the teacher should notify the parents of the child regarding the probability of their existence and recommend that proper medical and dental attention be secured for the child. In school districts in which state, county, or district public health services are available or conveniently attainable, these services will be utilized to meet the responsibility assigned to teachers. If such services are not available, the board of trustees or the board of education of the local district may employ qualified personnel to do the same. (*NRS Sec. 392.450*)

Special Education Evaluation: The board of trustees of each school shall establish the standards for eligibility for special education. These standards must adhere to the standards of the department of education. (*NRS Sec. 388.450*)

Before any child is placed in a school or a class for the mentally retarded, consultation with the parents or guardian must be held and in individual psychological examination administered to determine if the child can profit from education. This examination must be given by a competent psychologist approved by the state department of education or by a person serving under the supervision of such a psychologist also approved by the state department of education. In any specific case, if the governing board of a school district deems it necessary, a psychiatrist may be consulted. (*NRS Sec. 388.470*)

ADMINISTRATIVE RESPONSIBILITY

The state department of education prescribes the minimum standards for special education for physically and mentally handicapped minors. No state funds will be granted to any school district until its program of instruction for handicapped children is approved by the state department of education. (*NRS Sec. 388.520*)

The school district shall annually send to the superintendent of public instruction names of all children instructed under this act. Included are those children who are receiving services under cooperative arrangements between the division of vocational rehabilitation and the department of education. (*NRS Sec. 388.540*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

"The Legislature declares that the basic support guaranteed per pupil as expressed in NRS 387.122 establishes financial resources sufficient to insure reasonably equal educational opportunity to physically handicapped or mentally handicapped minor residents in Nevada." (*NRS Sec. 388.450*)

The State Board of Education shall apportion to each school district the sum of $500 for each handicapped child receiving services. (*NRS Sec. 387.125*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Statutes contain no specific provisions for the handicapped in this area.

SERVICES

Physically or mentally handicapped children may be instructed in special ungraded schools or classes for the instruction of handicapped children. (*NRS Sec. 388.500*)

Transportation may be provided to pupils attending special schools or classes for the handicapped. (*NRS Sec. 388.510*)

The superintendent of public instruction is authorized to make arrangements with any institution for the deaf, mute, or blind in any state for the admission, education, and care of such children or to provide for the support and care of any deaf, mute, or blind person in this state by placing such a person in a foster home or other residential facility in a county of this state having an educational program if the home county of the deaf, mute, or blind person does not have such a program. (*NRS Sec. 395.0110*)

In order to be eligible for benefits under this act, a person must meet the following qualifications:

1. mentally or physically capable of receiving education or instruction;
2. free from offensive and contagious diseases;
3. unable to pay for his support, education, and instruction at an institution for the deaf, mute, or blind;
4. his parent, relative, guardian, or nearest friend is unable to pay for his support, education, and instruction in an institution for the deaf, mute, or blind, and
5. a resident of the state. No persons over age 21 would be eligible under this section unless he has been a resident of the state for a period of five years preceding the date of application.

The parent, relative, guardian, or nearest friend of such a handicapped person may apply directly to the board of county commissioners for services under this act. Upon receipt of the application, the superintendent is instructed to make the necessary arrangements for the education and care of deaf, mute, or blind persons. Before any such person is placed in a home other than that of a relative, he must obtain a certificate of approval from the state welfare administrator. (*NRS Sec. 395.020, 395.030, 395.040*)

Provision shall be made at state expense to transport the handicapped person to the institution, foster home, or residential facility. (*NRS Sec. 395.050*)

A parent, relative, guardian, or nearest friend of a visually or aurally handicapped person who resides in the county school district having no provision for the education of such handicapped persons (and therefore, not qualified under the above section) may make direct application for educational benefits to the superintendent of public instruction. There is provision for the superintendent of public instruction to enter into a contract with the parent, relative, guardian, or nearest friend of aurally or visually handicapped persons to share the cost of providing for educational benefits. Such contracts shall have the following stipulations:

1. the share of the cost for the education and support of such visually or aurally handicapped persons by the state shall not exceed that provided aurally or visually handicapped persons in the previously noted section, and
2. there will be no cost to the state for medical expenses.

The superintendent's authority to enter into these contracts will be the same as his authority in Section 395.040. (*NRS Chap. 135, adding a new section to Chap. 395*)

PRIVATE

See Services.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Boards of school trustees may purchase sites and buildings in the same manner as other school sites and school buildings may be purchased and erected. They may also rent suitable property at an economical rental, without being so directed by a vote of the district. Boards may also accept gifts or donations of sites and buildings for such purposes. (*NRS Sec. 388.500*)

NEW HAMPSHIRE

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the legislature and magistrates in all future periods of this government, to cherish the interests of literature and the sciences, and all seminaries and public schools. . ." (*Art. 83, Pt. 2, N.H. Const.*)

Compulsory Attendance Law: Each child between the ages of six and 16 will attend a public school within the district, public school outside the district to which he is assigned, or an approved private school during the school year unless he has been excused from attending such schools on the grounds that his physical or mental condition is such as to prevent his attendance or make it undesirable. (*NHRSA 193:1*)

Policy: "It is hereby declared to be the policy of the state to provide the best and most effective education possible to all handicapped children in the state of New Hampshire." (*NHRSA 186-A:1*)

Responsibilities: No public official, agent, or representative, in carrying out the special education provisions, is authorized to take charge of any child over the objection of the parents of the child or of persons standing in loco parentis to the child except by a proper court order. (*NHRSA 186-A:13*)

All handicapped children capable of benefiting by instruction shall attend an approved school program. If a physically handicapped child over age 21 is capable of benefiting from instruction and applies for continued education services, the instruction may be continued until the physically handicapped child has acquired an education equivalent to a high school education or has attained age 31. (*NHRSA 186-A:6*)

POPULATION

Definitions: " 'Physically handicapped' shall mean a child between the ages of five and 21 years, married or unmarried, whose activity is or may become restricted by reason of a physical defect or infirmity, however caused, as to reduce his normal capacity for education or self support, or both.

" 'Intellectually handicapped' shall mean a child between the ages of five and 21 years, married or unmarried, whose activity is or may become so restricted by intellectual handicap, however caused, as to reduce his normal capacity for education or self support, or both.

" 'Emotionally handicapped' shall mean a child between the ages of five and 21 years, married or unmarried, who by reason of internal emotional conflict, home conditions or general environment, has behavior and/or problems or is otherwise unable to make normal social or educational adjustment but who has sufficient intellectual and emotional capacity to be able with clinical diagnosis, proper treatment, training and remedial education, to become a responsible and self supporting citizen.

" 'Handicapped child' shall mean any child who is handicapped by one or more of the above defined handicaps." (*NHRSA 186-A:2*)

Age of Eligibility: Deaf children may begin school at the age of four. The school district in which the child resides will pay tuition in the same manner and in the same amount as specified in NHRSA 193:4 and NHRSA 194:27.

Other handicapped children are eligible for services between the ages of five and 21. (*NHRSA 186-A:2*)

IDENTIFICATION AND PLACEMENT

Census: School boards must report, by October 1 annually to the state department of education, the number of handicapped children in their school districts. Later reports will be made when any other handicapped children are located within the districts. (*NHRSA 186-A:4*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education, acting through the commissioner of education, is responsible for preparing, developing, and administering plans to provide educational facilities for the handicapped. (*NHRSA 186:11*)

The state board of education has the authority to establish a program of special education with appropriated or available funds and may appoint any necessary personnel to operate the program. (*NHRSA 186-A:3*)

The state board of education is authorized to cooperate with the federal government or any government agency to develop plans for education of handicapped children and to receive and expend all funds made available to the state board of education from the federal government or its agencies. The school districts are authorized to receive and incorporate in their budgets and expend any such funds made available to them through the state board of education from the federal government or any of its agencies. (*NHRSA 186-A:10*)

The state schools for the mentally retarded are under the supervision of the commissioner of health and welfare. (*NHRSA 126-A:30*)

The state school for the emotionally disturbed is under the supervision of the division of mental health in the department of health and welfare. (*NHRSA 126-A:30*)

PLANNING

An approved plan for the education of handicapped children will be submitted by the state board of education to school districts. The school districts may employ this plan to educate handicapped children capable of benefitting by instruction or training within the specific districts (except as noted within the Right to an Education section). (*NHRSA 186-A:5*)

FINANCE

The state board of education is authorized to pay to any school district or private organization operating an approved program a portion of the actual cost of the education of each resident child as long as the program meets the standards of the state board and funds are appropriated. (*NHRSA 186-A:11*)

The expenses incurred by the school board in administering the law in relation to the education of the handicapped are paid to the district from funds appropriated or made available to it. (*NHRSA 186-A:12*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If a school district does not establish approved classes or programs for handicapped children, it shall pay tuition for an approved program or class maintained by another district or by a private organization. (*NHRSA 186-A:7*)

If a handicapped child attends any public or private school or program inside or outside the state which offers approved instruction, the school district of residence may pay a portion of the cost in the manner and up to the amounts as provided by NHRSA 193:4 and NHRSA 194:27. The state board of education may assign pupils to approved schools for handicapped children as provided in NHRSA 193:3. School districts may pay a higher rate of tuition than the specified amounts if, in the judgment of the school board, the circumstances warrant. (*NHRSA 186-A:8*)

SERVICES

The school board will furnish suitable transportation to all handicapped children able to be transported from their homes to the places where instruction or training is furnished. The responsibility of the school districts for transportation may not exceed, per pupil, an amount equal to the responsibility of the district for tuition as specified in NHRSA 193:4.

If the cost of transportation constitutes an unreasonable expense, the school board, at the expense of the local district, may board the child near the place where the instruction or training is furnished and provide transportation from the place where the child is boarded to the place of instruction or training. If, in the judgment of the school board the circumstances warrant, the school district may pay for transportation at a higher per pupil rate than that specified. (*NHRSA 186-A:9*)

PRIVATE

See Administrative Structure and Organization.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

NEW JERSEY

RIGHT TO AN EDUCATION

Constitution: "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in this state between the ages of five and 18 years." (*Art. VIII, Sec. 4, N.J. Const.*)

Compulsory Attendance Law: All children will attend the public schools of the district unless it is shown to the satisfaction of the board of education that the mental or bodily condition of the child prevents his benefitting from instruction or his attendance at school. "Nothing herein shall be construed as permitting the temporary or permanent exclusion from school by the board of education of any district of any child between the ages of five and 20, except as explicitly otherwise provided by law." (*N.J.S. 18a:38-6*)

Responsibilities: "It shall be the duty of each board of education to provide suitable facilities and programs of education for all children who are classified as handicapped under this chapter, except those so mentally retarded as to be neither educable or trainable. The absence or unavailability of a special class facility in any district shall not be construed as relieving the board of education of the responsibility for providing education for any child who qualified under this Chapter." (*N.J.S. 18A:46-13*)

A pupil may be refused admission to or excluded temporarily from the schools of any district for any reasonable time, pending his examination, and classification, pursuant to this chapter. (*N.J.S. 18:46-16*)

POPULATION

Definitions: "As used in this chapter 'handicapped child' includes any child who is mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, and multiple handicapped." (*N.J.S. 18A:46-1*)

Mentally retarded children are divided into the following three categories: "a. educable mentally retarded children, who are those who may be expected to succeed with a minimum of supervision in homes and schools and community life and are characterized particularly by reasonable expectation that at maturity they will be capable of vocational and social independence in competitive environments; b. trainable mentally retarded children, who are so severely retarded that they cannot be classified as educable but are notwithstanding potentially capable of self help or communicating satisfactorily or participating in groups or directing their behavior so as not to be dangerous to themselves or others and achieving with training some degree of personal independence and social and economical usefulness within a sheltered environment; c. children who are so mentally retarded as to be neither educable or trainable." (*N.J.S. 18A:46-9*)

Age of Eligibility: Services must be provided to children between the ages of five and 20 and may be provided to those under five and over age 20 for those who have not completed high school.

IDENTIFICATION AND PLACEMENT

Census: All boards of education are responsible for identifying, according to state board rules, children between the ages of five and 20 in the public schools of the district who are not being properly accommodated because of their handicaps. (*N.J.S. 18A:46-6*)

The boards of education will annually report to the county superintendent, who in turn reports to the commissioner, the names of all children in special education programs, names and addresses of the parents or guardians having control or custody of the children, and the category into which they have been classified. This report must include the names and addresses of handicapped children not attending school. The commissioner will make the information in the reports available to state agencies charged with the care and treatment of any particular category of handicapped children. (*N.J.S. 18A:46-7*)

All physicians in charge of a case of "mental deficiency or epilepsy" and the medical supervisor of any school who have reason to believe that a person attending the school is "mentally deficient or has epilepsy" will report the case to the assessor of the township in which the person resides. (*N.J.S. 26:5-1*)

All physicians shall report all cases of cerebral palsy under their care if the patient is under 18 as well as any new cases of cerebral palsy, regardless of the age of the patient. Reports are made to the local boards of health. The state department of health will furnish the forms and prescribe the regulations in which the reports are to be made. (*N.J.S. 26:5A-1*)

Screening: The medical inspector or nurse, under the immediate direction of the medical director, will examine all children to learn whether defects exist and will keep a continuous record of the growth and development of the children. The record is the property of the board of education and will be delivered by the medical inspector or nurse to his successor in office. (*N.J.S. 18:14-57*)

Special Education Evaluation: All handicapped children will be identified, examined, and classified according to procedures established by the state board and the commissioner under one of the following categories: mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, or multiply handicapped. (*N.J.S. 18A:46-8*)

Boards of education, separately or jointly with one or more boards of education, will employ psychological examiners, who, acting jointly with special education personnel, will administer the procedures for diagnosing and classifying children. If districts do not employ psychological examiners, they may contract to use with or without financial reimbursement psychological or other services of any clinic or agency approved by the commissioner. (*N.J.S. 18A:46-1*)

With the approval of the state board of education and the state board of control, the commissioner will prescribe standards for approving clinics or agencies furnishing services. (*N.J.S. 18A:46-12*)

Superintendents of schools and the principal of a school in a district with no superintendent may, with the advice of psychological examiners administering the classification procedures, refuse to admit or exclude any child who is so severely mentally retarded that he has been classified as not trainable. Any child refused admission or excluded will be re-examined if requested by the parent or any other person having custody and control of the child, after a year has elapsed from the date of the previous examination. (*N.J.S. 18A:46-17*)

Names of all children who have been refused admission or have been excluded will be forwarded to the secretary of the board of education with the names and addresses of their parents or persons having custody or control of them. The refusal of admission or exclusion continues unless or until it is so decided by an action of the board of education or is lifted as a result of an examination. The superintendent or principal will report the names of any other mentally retarded in the district known to him, if they are not in a private school or residential institution and if they are considered uneducable or untrainable.

The secretary of the board of education is responsible for reporting the names and addresses of children who have been denied admission or are excluded to the county superintendent. The county superintendent will furnish names and addresses to the commissioner. He transmits copies of all these lists to the commissioners of institutions and agencies. The lists are not public but may be open to inspection of public and private agencies having a legitimate interest in them. The presence of any name on the list does not necessarily constitute eligibility for admission to any of the institutions under the control of the department of institutions and agencies. (*N.J.S. 18A:46-18*)

Boards of education are not required to provide any further educational program for children who have been admitted to the state school for the deaf, but they are required to furnish necessary daily transportation to and from the school for non-boarding pupils, if the transportation is approved by the county superintendent. (*N.J.S. 18A:46-13*)

ADMINISTRATIVE RESPONSIBILITY

With the consent of the state board, the commissioner, according to the rules and regulations prescribed by him with the approval of the state board, will provide special education facilities and educational programs meeting the requirements of this chapter. Periodically by the use of available members of his staff, he will publish bulletins and through any other means available, encourage boards of education to establish programs. (*N.J.S. 18A:46-15*)

The commissioner may require periodically the educational, financial, and statistical reports from governing boards. (*N.J.S. 18A:46-16*)

The commissioner is responsible for coordinating the county departments of child study for the general administration of special education services. In order to carry out these provisions, he will appoint persons qualified to administer educational services in the field of education of the handicapped including each of the following disability groups: mentally retarded, orthopedically handicapped, communication handicapped, visually handicapped, neurologically and perceptually impaired, chronically ill, emotionally disturbed, socially maladjusted and the auditorily handicapped. He will also appoint a consultant experienced in child psychiatry and specialists in school psychology, health service, school social work, learning disabilities, special education, and any other necessary personnel.

All state institutions for the care of the emotionally disturbed and the mentally retarded are under the state board of control. (*N.J.S. 30:1-15.3*)

PLANNING

The commissioner will appoint biannually an advisory council consisting of at least seven but no more than 15 representatives of professional and lay interests. The council will advise in the promulgation of rules, regulations, and implementation of the special education laws, and establishment of standards and qualifications for professional personnel. Appointments to the council must be approved by the state board. (*N.J.S. 18A:46-2*)

FINANCE

The board of education will furnish daily transportation to all handicapped children who qualify. The school district providing transportation will receive state aid for 75 percent of the cost if the necessity for this transportation and the cost and method of transportation has been approved by the county superintendent. (*N.J.S. 18A:46-23*)

Each state college operating approved special classes or classes for handicapped children is paid $2,000 per class. Local school districts, whether operating special education classes separately or jointly, are reimbursed in the following manner:

1. Cost of operating an educational program for the handicapped (including a cost for identification, examination, supervision and other special education services approved by the commissioner) will be reimbursed at the rate of 50 percent, except that no local district jointure commission or college demonstration school will receive more than $3,000 a class in state aid and one-half of the approved portion paid to another school, district or state operated facility, or private school.
2. Seventy-five percent of the cost of furnishing transportation within the state (if it has been approved by the commissioner.

State aid in the amount of one-half of the apportionment to jointure commissions to any contracting district for operational expenses) will be paid to the contracting districts. State aid will be apportioned to each contracting district in accordance with the number of pupils enrolled from the district. (*N.J.S. 18A:58-6*)

If approved special education services are provided by a county special services school district, all reimbursement goes to the county for such special services district. (*N.J.S. 18A:58-6*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If the survey of handicapped children in any county shows that the establishment of a department of child study is warranted, the commissioner, with the approval of the state board, may establish such a department to perform the special education functions at the county level. For each county department of child study, they will appoint a supervisor whose duties include coordinating all special education services in the county and any additional personnel constituting a child study team necessary to perform services for handicapped children. In addition to the supervisor of the child study team, members must include personnel qualified to administer, supervise, or otherwise perform special education services. The county superintendent or the county superintendents of the county or counties served by a child study team, with the approval of the commissioner, will designate a member of the child study team to serve as chairman. If they cannot agree upon a chairman, the commissioner will designate him. (*N.J.S. 18A:46-3*)

In cooperation with local boards of education, child study teams will perform the following duties: 1) identifying and diagnosing children needing special education; 2) developing and approving public school programs for such children; 3) supervising and coordinating the public school programs for handicapped; 4) reporting and referring children with handicaps whose severity necessitates residential placement, medical or psychological treatment, or care to the appropriate agencies; 5) social case work and psychological evaluation; 6) remedial instruction; 7) cooperative action with other state or county departments and lay professional organizations, and 8) any additional responsibilities determined by the commissioner. (*N.J.S. 18A:46-5*)

The commissioner may require a board of education having appropriate facilities to provide services to children from other districts. (*N.J.S. 18A:46-20*)

Any board of education, jointure commission, state operated facility or private school, which receives pupils from another district, will determine tuition rates to be paid by the sending board of education. In no case will the tuition rate in a non-public school exceed the maximum day class per pupil cost of education in similar education classes in public schools as determined by the formula prescribed by the state commissioner. (*N.J.S. 18A:46-21*)

If a board of education enters its pupils into special education services in another district, it may not withdraw the pupils for the purpose of entering them in another district, unless "good and sufficient reason exists for such a change and unless an application therefore is made and approved by the commissioner." If either the receiving or sending board of education is dissatisfied with the determination of the commissioner on any application, the matter may be appealed to the state board, and at its discretion, that body may affirm, reverse, or modify the commissioner's decision. (*N.J.S. 18A:46-22*)

Any two or more districts may provide facilities, examinations, or transportation under the terms of the agreement adopted in resolutions by all involved boards of education setting forth the essential information concerning the facilities, examinations, or transportation to be provided. Cost will be apportioned among the districts. All agreements must be approved by the commissioner. (*N.J.S. 18A-46-24*)

If two or more of boards of education decide to jointly carry out their special education responsibilities, the boards may, in accordance with the rules and regulations of the state board and with the approval of the commissioner, adopt joint resolutions to establish a jointure commission to provide these services. The commission, in accordance with the rules of the state board, is composed of representatives of the respective boards of education. (*N.J.S. 18A-46-25*)

The jointure commission has the authority to:

1. provide and maintain necessary facilities by acquiring land, buildings, and furnishing or renting;
2. take any necessary action to conduct proper educational programs for children referred to the commission by boards of education or members of the commission;
3. employ necessary principals, teachers, and other officers or employees who have the same rights and privileges as those similarly employed by local boards of education;
4. accept pupils from other school districts and fix the tuition rate, and
5. apportion among the districts the amounts of capital and per capita operating costs in the programs.

Within the limited responsibilities of providing services to handicapped children, the commission has and may exercise all powers of a board of education. (*N.J.S. 18A-46-26*)

Contracting boards of a jointure commission shall: 1) raise the amounts apportioned by the commission in the same manner as other school funds for capital and current expenses are raised; 2) pay the commission their apportioned amounts; 3) be responsible for classifying children within the districts and referring them to the commission, and 4) provide transportation for children to and from schools referred to the commission. (*N.J.S. 18A-46-27*)

Contracting districts may withdraw from the commission in accordance with the state board rules and regulations, and additional districts may become contracting districts. (*N.J.S. 18A-46-28*)

A county board of freeholders may establish a county special services school district for the education and treatment of handicapped children upon finding that the needs exists for such a district. Before making any finding, the board must hold at least one public hearing with at least 10 days' notice of time and place in a newspaper of general circulation within the county. The state board is responsible for prescribing the rules and regulations to organize, manage, and control the special service school. If a tuition rate not exceeding 50 percent of the cost for such education is paid by sending districts, the board of education of the county special services school may receive pupils from other counties as far as their facilities may permit. Any schools established under this act must accept all eligible pupils within the county if the facilities are available. Payments will be made quarterly to the receiving districts by each sending district. The rate of annual tuition cannot exceed 50 percent of the pro rata annual cost of operating and maintaining the county special services school district after deducting from such costs all amounts of aid received by this district from the county, state, or federal government, but excluding any cost from the cost of required payments of interest or principal on bonds or notes of the county issued for purpose of the district.

The aggregate amount of all these payments and tuitions may be anticipated by the board of education of the county special services school district and by the board of chosen freeholders of the county with respect to the annual budget. Amounts of all annual tuition payments paid by any school district will be raised each year in the annual budget of the other school districts paid to the county special services school districts. The board of education in any county special services district, with the approval of the chosen freeholders, will provide for the establishment, maintenance, and operation of dormitory or other boarding care facilities for pupils attending one or more of its schools. The board will provide for establishment of health care services and facilities.

The course of study in the special services schools must be approved by the commissioner and the state board. As a first priority, programs should be established that are not available in any other school in the county, especially for those with unusually severe disabilities or unusual multi-disabilities. Then courses of study should be established which may be available but for which there is not sufficient capacity to accommodate all the students identified and classified as requiring these courses. The school year for these districts begins on July 1 and ends June 30.

Each county special services district has a board of education consisting of a superintendent of schools ex officio and six persons appointed by the director of the chosen board of freeholders. In any county having a county mental health board, the chairman of the board also serves as an ex officio member, but he is not entitled to vote on any matter before the board. All members of the board shall have shown an interest in children with an unusual disability or in the field of mental health.

By February 1, annually, the board of education of county services to school districts will deliver to each member of the board of school estimates an itemized statement as to the amount of money estimated to be necessary for care and expenses and for repairing and furnishing schools or buildings. Between February 1 and February 15, the board will fix and determine, by official action taken at a public meeting, the amount of money necessary for the use of the district. The amounts of money needed by the district will be appropriated and collected by the board of chosen freeholders in the same manner as money appropriated for other purposes in the county. If the board of education of the special services district finds it necessary to raise money to purchase land or buildings for school purposes or for erecting, enlarging, improving, repairing, or furnishing buildings for the use of the district, the board will prepare and deliver to each member of the board of school estimate, statements of the amount of money estimated to be necessary for these purposes. Money needed for these purposes may be obtained in the same manner as the county raises money for these purposes including issuance of bonds or notes of the county pursuant to the local bond law.

Proceeds of the sale of any of these obligations will be paid to the treasurer of the county special services district. If for any reasons the proceeds are not applied to necessary special education purposes, the board of education of the county special services district may transfer the remaining balance to the capital outlay in the county school district.

All teachers, principals, and other employees of the board of education of the county special services district possess all the rights and privileges of teachers, principals, or employees of other boards of education of the other school districts. Whenever a county special services school district is established, the treasurer of the school district will be paid by the commissioner an amount equal to that raised in the county for establishing the school district, exclusive of the amount appropriated for purchasing land or erecting buildings. The state will annually then appropriate an amount equal to the amount appropriated by the county for the operation of the district.

Boards of education of special services school districts shall appoint an advisory committee of at least 10 members, consisting of representatives of recognized organizations, working exclusively with children classified as having unusual disability and, in any county with the department of child study, the county child study supervisor. The committee must meet at least four times a year to consider or refer to the board and make any recommendations to it. (*Ch. 271, Laws of 1971*)

SERVICES

Children classified as needing special education shall be classified according to abilities to benefit from specified types of educational services. These services must be conducted according to the rules and regulations of the commissioner and the state board. The types of services to be provided include but are not limited to: 1) case work with the pupil at home or at school; 2) counseling and guidance; 3) remedial instruction; 4) special scheduling of the school program including part-time attendance and special or regular classes in other agencies or institutions; 5) special grouping in school for children whose prognosis is favorable to return to the regular program, and 7) arrangement through the commissioner for direct services from the county department of child study. *(N.J.S. 18A:46-10)*

Special education services required may be provided by one or more of the following:

1) special class or classes in the district including class or classes in hospitals, convalescent homes, or other institutions;
2. special classes in the public schools of another district in the state or an adjoining or nearby state;
3. Joint facilities including a class or classes in hospitals, convalescent homes, or other institutions provided by an agreement between one or more school districts;
4. a jointure commission program;
5. a state operated program;
6. instruction in school supplementary to other programs in the school if, in the judgment of the board of education, the handicapped pupil is best served in this manner, and
7. sending children capable of benefiting from a day-school instructional program to privately operated nonprofit day classes in the state or an adjoining or nearby state within 400 miles of Trenton. (With the approval of the commissioner and to meet particular circumstances, the child may be sent a greater distance from Trenton.) The services of these schools must be non-sectarian, and they may be only provided if it is impractical to provide services according to items one through five. Individual instruction at home or in school, if it is impracticable to provide a suitable special education program according to all seven above. *(N.J.S. 18A:46-14)*

If a child is in a hospital, convalescent home, or other institution within the state or nearby state, the board of education of the district of residence will pay the tuition of the child in the program. The board may also furnish services to children over the age of 20 without a high school diploma and to children under age five. *(N.J.S. 18A:46-14)*

PRIVATE

See Services and Finance.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Boards of education are required to include in all plans and specifications for construction of public building facilities for the physically handicapped. State board regulations will prescribe the type, kind, and quality of these facilities including:

1. a principal entrance with an approved ramp access;
2. on floors occupied by students, at least one watercloset stall for each sex accessible to wheelchair pupils;
3. drinking fountains on each pupil occupied floor accessible to wheelchair pupils;
4. in multistory buildings, an elevator available for students in wheelchairs;
5. one working area in laboratory and shop facilities dimensioned for use by physically handicapped students; and
6. a public telephone at a height usable for students in wheelchairs. *(Chap. 42, 1972)*

NEW MEXICO

RIGHT TO AN EDUCATION

Constitution: "Provision shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of the State and free from sectarian control and said schools shall always be conducted in English." (*Art. XXI, Sec. 4, N. Mex. Const.*)

"Every child of school age and of sufficient physical and mental ability shall be required to attend a public or other school during such period and for such time as may be prescribed by law." (*Art. XII, Sec. 5, N. Mex. Const.*)

Compulsory Attendance Law: Children, who are six years old by January 1 of a school year and until they reach age 17, shall attend a public school, a private school maintaining approved courses of instruction, or a school conducted by a state institution. A child is specifically exempted from the provisions if he is physically or mentally incapable of attending the public schools. A local superintendent may excuse any resident child below age nine. (*Sec. 77-10-2 NMSA*)

All persons having control of a blind child between the ages of five and 21 who cannot be [illegible] in the public schools must send the child to the institute for the blind for at least seven years unless the child is taught in an approved private school, at home, or in a similar institution in another state or unless the child is suffering from a physical or mental disability which prevents him or her from attending the institute. Children under age five may be admitted into the institute. (*Sec. 73-23-3 NMSA*)

Responsibilities: The state requires all districts over a five year period to provide special education to meet the needs of all exceptional children. Each district is required to meet the educational needs of at least one-fifth of its eligible exceptional children during the sixty-first fiscal year; at least two-fifths of such children during the sixty-second; three-fifths during the sixty-third; and four-fifths during the sixty-fourth school fiscal year. (*Sec. 77-11-3 NMSA*)

POPULATION

Definitions: " 'Exceptional children' means children whose abilities render regular services of the public school to be inconsistent with their educational needs." (*Sec. 77-11-3.1 NMSA*)

Age of Eligibility: Children are eligible to receive special education services beginning at legal school age (six years of age by January 1 of the school year) until they reach age 21. (*Sec. 77-11-3 NMSA*)

IDENTIFICATION AND PLACEMENT

Census: Superintendents of all school districts, by August 1 and January 1 of each year, must report to the superintendent of the school for the blind all school age blind children who reside within their districts. The superintendent of the institute is then required to communicate to the parent, guardian, or person having control of the child, the provisions of this act. (*Sec. 73-23-5 NMSA*)

Special Education Evaluation: The department of education, with state board approval, is required to set the standards for diagnosis and screening and educational offerings for exceptional children. (*Sec. 77-11-3.2 NMSA*)

ADMINISTRATIVE RESPONSIBILITY

Regulations and standards will be developed by the state board for the conduct of the special schools and classes of the public school system and in all institutions wholly or partly supported by the state. (*Sec. 77-11-3.1 NMSA*)

The Los Lunas Hospital and Training School for the mentally retarded is governed by the department of hospitals and institutions. (*Sec. 34-3-5 NMSA*)

The school for the deaf is under the control of a five member board of regents appointed by the governor. (*Sec. 73-24-3 NMSA*)

The institute for the blind is under the supervision of an independent board of directors. (*Sec. 73-23-1 NMSA*)

The department of hospitals and institutions administers the state institutions for the emotionally disturbed. (*Sec. 34-1-12 through 34-3-14 NMSA*)

PLANNING

The state board is required to adopt and keep current a state plan of special educational policy, programs, and standards. (*Sec. 77-11-3.2 NMSA*)

FINANCE

All programs for exceptional children must be approved by the state superintendent before any state funds may be distributed. (*Sec. 77-11-3.2 NMSA*)

Financial aid to school districts and other public institutions for education or related services for exceptional children will be determined and paid in accordance with the rules and regulations of the department. The distribution for special education reimbursement is determined in the following manner:

1. Reimbursement for teachers of the trainable mentally handicapped is computed by multiplying one teacher for each six students by the appropriation unit for a specialist ($9,337.);
2. Reimbursement for teachers in approved special education resource rooms will be equal to the appropriation unit for a specialist ($9,337.);
3. Teacher reimbursement for all other special education classes is computed by multiplying one teacher per twelve special education pupils by the appropriation unit for a specialist ($9,337.);
4. Supporting costs are determined as a percentage of teacher cost determined by numbers one, two and three for each school district with an approved program. The percentage of supporting cost will be determined by *Section 77-6-18.3, NMSA, 1953.*

After approval by the state superintendent, distributions will be made by the chief for special education programs entered into between school districts. The state superintendent's approval and the chief's distribution are limited to reimbursements for certified, unreimbursed expenditures of approved programs. The allowable reimbursements are determined by this section and determinations of the chief. Programs eligible for approval and distribution are identified by standards and regulations of the department. Such programs must have been approved by the state superintendent and chief and certified by letter to the local superintendent prior to school district receipt of any funds. (*Sec. 77-6-19.2 NMSA*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

With the approval of the state superintendent, a school district may contract with another school district to educate or train handicapped children. The agreement will provide for the payment of the special education facilities or services provided. (*Sec. 77-11-13 NMSA*)

SERVICES

" 'Special education' means the provision of services additional to, supplementary with, or different from those provided in the regular school program by a systematic modification and adaptation of instructional techniques, materials, and equipment to meet the needs of exceptional children." (*Sec. 77-11-3.1 NMSA*)

PRIVATE

The responsibility of school districts and state institutions to provide exceptional children with a free public education is not diminished by the availability of private schools and services. If such schools and services are utilized, the state continues to be responsible to assure that all exceptional children receive the education to which the laws of the state entitle them. School boards may make agreements with nonsectarian, nonprofit, educational training centers to educate exceptional children and provide payment for this education. Such payments will be made by the local board from the basic distribution and any other available funds. All agreements between local boards and nonsectarian, nonprofit, educational training centers must be approved by the state superintendent. Agreements must provide for diagnosis and an educational program for each child meeting state standards. The agreements must also acknowledge the authority and responsibility of the local board and the department to conduct on-site evaluations of programs and pupil progress to ensure meeting state standards. Children attending such training centers will be counted in the district membership on the same basis as regular students. The distribution will be made to the school district purchasing the services from the nonprofit training centers from the appropriation for the basic program distribution. (*Sec. 77-11-3.2 NMSA*)

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

NEW YORK

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for the maintenance and support of the system of free common schools, wherein all the children of this state may be educated." *(Sec. 1, N.Y. Const.)*

Compulsory Attendance Law: Children between the ages of seven and 16 and who are in a proper mental and physical condition are subject to the compulsory education requirement. *(Sec. 3205 N.Y. Stats.)*

A minor whose mental and physical condition is such that attendance at school endangers his health and safety or that of other children or who is "feeble-minded" to the extent that he is unable to benefit from instruction is not permitted to attend school.

A child whose mental or physical condition is such that he does not attend school, due to the lack of facilities for his care, transportation, and instruction, will be permitted to attend school when the lacking facilities are provided. If prohibited from attending school due to a physical condition which could be remedied by reasonable measures, the child may only be temporarily excluded from school. The determination of a physical or mental condition will be based only upon an actual examination of the child by a person qualified by appropriate training and experience in accordance with state and district requirements. The state education department will designate the person having the required qualifications to make a mental or physical examination in behalf of any local school authorities, but in a city with a population of 100,000 or more the superintendent will designate the person. *(Sec. 3208 N.Y. Stats.)*

Responsibilities: "2. a. The board of education of each city and of each union free school district shall be required to furnish suitable education facilities for handicapped children by means of home-teaching, transportation to school or by special classes. The need of the individual child shall determine which of such services shall be rendered. Where there are ten or more handicapped children who can be grouped homogeneously in the same classroom for instructional purposes such board shall establish such special classes as may be necessary to provide instruction adapted to the mental attainments and physical conditions of such children.

"b. Provided, however, that in each city or union free school district in which schools for handicapped children exist or may hereafter be established, which are incorporated under the laws of the state and are found by the board of education to be adequate to provide instruction adapted to the mental attainments and physical conditions of such children, the board of education shall not be required to supply additional special classes for the children so provided for. The boards of education of such cities or union free school districts are hereby authorized and empowered to contract with such schools for the education of such children in special classes therein.

"3. The board of education or board of trustees of each school district, which contains less than ten handicapped children shall have power to furnish suitable educational facilities for such children by means of home-teaching or transportation to school. The needs of the individual child shall determine which of such services shall be rendered. Such board is also authorized and empowered to contract with the board of education of another school district, a board of cooperative educational services or a vocational education and extension board of a county for the education of such children in special classes organized in the schools or such district, of such board of cooperative educational services or of such vocational education and extension board with which such contract is made.

"4. The board of education of each school district in which there are ten or more handicapped children who can be grouped homogeneously in the same classroom for instructional purposes shall establish such special classes as may be necessary to provide instruction adapted to the mental attainments of such children from their fifth birthday until the end of the school year during which they attain their twenty-first birthday, or shall contract with the board of education of another school district, a board of cooperative educational services or a vocational education and extension board for the education of such children, under regulations to be established by the commissioner of education."

". . . 5-a. The provisions of subdivision four of this section shall apply only to children having intelligence quotients of not less than fifty.

"6. The board of education or trustees of each school district in which there are ten or more delinquent children shall establish such special classes as may be necessary to provide instruction adapted to the capabilities of such children under rules to be established by the commissioner of education.

"7. The board of education of each union free, central or city school district in which there are ten or more non-English speaking children may establish such special classes as may be necessary to provide instruction adapted to such children under rules to be established by the commissioner of education." (*Sec. 4404 N.Y. Stats.*)

"Special classes for certain handicapped children. 1. Notwithstanding any other provision of the law the board of education or the board of trustees of each school district in which there are eight or more handicapped children with retarded mental development having intelligence quotients of less than fifty shall have power and it shall be their duty, except as hereinafter provided in subdivision two of this section, to establish such special classes as may be necessary to provide instruction and training adapted to the mental attainments of such children under regulations to be established by the commissioner of education.

"2. The board of education or the board of trustees of any school district which contains less than eight handicapped children with retarded mental development having intelligence quotients of less than fifty, and with the approval of the commissioner of education, any such board in any school district which contains eight or more but less than twenty such children shall have the power and it shall be their duty to contract with the board of education of another school district, a board of cooperative educational services or a vocational education and extension board of a county for the instruction and training of such children." (*Sec. 4406 N.Y. Stats.*)

POPULATION

Definitions: "A 'handicapped child' is one, who because of mental, physical, or emotional reasons cannot be educated in regular classes but can benefit by special services and programs to include but not limited to, transportation, the payment of tuition to boards of cooperative educational services in public school districts, home teaching, special classes, special teachers, and resource rooms." (*Sec. 4401 N.Y. Stats.*)

Age of Eligibility: Children are eligible for special education services from their fifth birthday until the end of the school year during which they become 21.

IDENTIFICATION AND PLACEMENT

Census: "The board of education or trustees of each school district shall ascertain under regulations prescribed by the commissioner of education and approved by the regents of the university, the number of handicapped children in such district under the age of twenty-one years." (*Sec. 4404 N.Y. Stats.*)

Screening: "Examinations by medical inspection. Each principal or teacher in charge of a public school shall report to the medical inspector having jurisdiction over such school the names of all pupils who have not furnished health certificates as provided in section nine hundred three, or who are handicapped children as defined by article eighty-nine of this chapter, and the medical inspector shall cause such pupils to be separately and carefully examined and tested to ascertain whether any of them are suffering from defective sight or hearing, or from any other physical disability tending to prevent them from receiving the full benefit of school work, or requiring a modification of such work to prevent injury to the pupils or to receive the best educational results. If it be ascertained upon such test or examination that any of such pupils are afflicted with defective sight or hearing or other physical disability as above described the principal or teacher having charge of such school shall notify the parents or other persons with whom such pupils are living, as to the existence of such defects and physical disability. If the parents or guardians are unable or unwilling to provide the necessary relief and treatment for such pupils, such fact shall be reported by the principal or teacher to the medical inspector, whose duty it shall be to provide relief for such pupils." (*Sec. 904 N.Y. Stats.*)

Special Education Evaluation: "The board of education of each school district shall cause suitable examinations to be made to ascertain the physical, mental and social causes of such failures or "under-achievement" of eavery pupil in a public school, not attending a special class, who has failed continuously in his studies or is listed as an "underachiever". Such examinations shall be made in such manner and at such times as shall be established by the commissioner of education, to determine if such a child is incapable of benefiting through ordinary classroom instruction, and whether such child may be expected to profit from special educational facilities. The commissioner of education shall prescribe such reasonable rules and regulations as he may deem necessary to carry out the provisions of this paragraph." (*Sec. 4404 N.Y. Stats.*)

ADMINISTRATIVE RESPONSIBILITY

"The state education department shall have power and it shall be its duty:

1. To maintain a register of handicapped children and to use all means and measures necessary to adequately meet the physical and educational needs of such children, as provided by law.

2. To stimulate all private and public efforts designed to relieve, care for, cure or educate handicapped children and to coordinate such efforts with the work and function of governmental agencies.

3. To formulate such rules and regulations pertaining to the physical and educational needs of such children as the commissioner of education shall deem to be in their best interests." (*Sec. 4402 N.Y. Stats*)

The New York State School for the Deaf is under the jurisdiction and control of the education department. (*Sec. 4351 N.Y. Stats.*)

PLANNING

Statutes contain no specific provision for the handicapped in this area.

FINANCE

Statutes contain no specific provision for the handicapped in this area.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

"At the request of component school districts, and with the approval of the commissioner of education, provide any of the following services on a cooperative basis: school nurse teacher, attendance supervisor, supervisor of teachers, dental hygienist, psychologist, teachers of art, music, physical education, vocation subjects, guidance counselors, operation of special classes for handicapped children, as such term is defined in article eighty-nine of this chapter; pupil and financial accounting service by means of mechanical equipment; maintenance and operation of cafeteria or restaurant service for the use of pupils and teachers while at school, and such other services as the commissioner of education may approve. Requests for such services shall be filed by component school districts with the board of cooperative educational services not later than the first day of February of each year. The board of cooperative educational services shall submit its program to the department for approval not later than the fifteenth day of February of each year. Such board shall, through its executive officer, notify each component school district on or before the fifteenth day of March concerning the services which have been approved by the commissioner to be made available for the ensuing school year. Each component school district shall on or before the first day of April following such notification notify the board of cooperative educational services of its intention to participate or not to participate in such shared services and the specific services which such district elects to utilize. Notwithstanding the provisions of paragraph b of this subdivision any component school district which does not elect to participate in any such specific cooperative services authorized under this paragraph shall not be required to pay any share of the moneys provided in the budget as salaries of teachers employed in providing such service, for equipment and supplies for such service or for transportation of pupils to and from the place where such service is maintained. Provided, further, that a board of cooperative educational services may allocate the cost of such services to component school districts in accordance with terms agreed upon between such board and boards of education and trustees of local school districts." (*Sec. 1958 N.Y. Stats.*)

SERVICES

"Procedure through family court; cost of educational services. 1. The state education department shall have the power and duty to provide within the limits of the appropriations made therefor home-teaching, transportation, scholarships in non-residence schools, tuition or maintenance and tuition in elementary, secondary, higher, special and technical schools, for handicapped children in whole or in part from funds of the department, when not otherwise provided by parents, guardians, local authorities or by other sources, public or private. When the family court, or the board of education of the city of New York, shall issue an order to provide for the education, including home-teaching, transportation, scholarships, tuition or maintenance, of any handicapped child the commissioner of education, if he approves such order, shall issue a certificate to such effect in duplicate, one of which shall be filed with the clerk of the board of supervisors or other governing elective body of the county or chief fiscal officer of a city and one in the office of the commissioner of education.

"2. One-half of the cost of providing home-teaching, transportation, scholarships in non-residence schools, tuition and maintenance, as provided in subdivision one of this section, as certified by the commissioner of education, is hereby made a charge against the county or city in which any such handicapped child resides, and the remaining one-half of the cost thereof shall be paid by the state out of moneys appropriated therefor. All claims for services rendered and for supplies furnished and for other expenses incurred in providing such home-teaching, transportation, scholarships and tuition, shall be paid in the first instance by the board of supervisors or other governing elective body of the county or chief fiscal officer of a city in which such handicapped child resides, upon vouchers presented and audited in the same manner as in the case of other claims against the county or city.

"3. The legislature shall appropriate an amount sufficient to pay one-half of all the claims paid by a county or city for the purposes and in the manner herein specified. The clerk of the board of supervisors or other governing elective body of each county or chief fiscal officer of a city of the state which has paid claims as provided herein shall, not oftener than once in each month, transmit to the commissioner of education a certified statement in the form prescribed by him, stating the amount expended for the purposes specified herein, the date of each expenditure, and the purpose for which it was made. Upon the receipt of such certified statement the commissioner of education shall examine the same, and if such expenditures were made as required by law he shall approve it and transmit it to the comptroller for audit. The comptroller shall thereupon issue his warrant in the amount specified in such approved statement for the payment thereof out of moneys appropriated therefor to the county treasurer of the county or chief fiscal officer of a city by which such payments were made." (*Sec. 4403 N.Y. Stats.*)

"1. The following institutions for the instruction of the deaf and of the blind shall be subject to the visitation of the Commissioner of Education:

a. The New York School for the Deaf;
b. The Lexington School for the Deaf;
c. St. Mary's School for the Deaf in the City of Buffalo;
d. New York State School for the Deaf;
e. St. Joseph's School for the Deaf in the City of New York;
f. Rochester School for the Deaf in the City of Rochester;
g. New York State School for the Blind in the City of Batavia;
h. New York Institute for the Education of the Blind in the City of New York;
i. Lavelle School for the Blind in the City of New York;
j. Mill Neck Manor School for the Deaf in Nassau County;
k. St. Francis De Sales School for the Deaf and Hard of Hearing;
l. Clearly Deaf Center, Inc. in the County of Suffolk.

"2. It shall be the duty of the Commissioner:

"a. To inquire into the organization of the several schools and the methods of instruction employed therein.

"b. To prescribe courses of study and methods of instruction that will meet the requirements of the state for the education of state pupils.

"c. To make appointments of pupils to the several schools, to transfer such pupils from one school to another as circumstances may require; to cancel appointments for sufficient reason.

"d. To ascertain by a comparison with other similar institutions whether any improvements in instruction and discipline can be made; and for that purpose to appoint from time to time suitable persons to visit the schools.

"e. To suggest to the directors of such institutions and to the legislature such improvements as he shall judge expedient.

"f. To make an annual report to the legislature on all of the matters enumerated in this subdivision and particularly as to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging." (*Sec. 4210 N.Y. Stats.*)

"1. All children who are both blind and deaf or both blind and cerebral palsied shall be admitted as state pupils into one of the institutions described in this article for the instruction of the deaf or blind and under the same conditions of eligibility as are provided for the admission of deaf or blind state pupils. The rate per capita allowed for such blind and deaf and blind and cerebral palsied state pupils shall be not less than double the annual rate per capital allowed for state pupils who are deaf or blind and shall be paid in the same manner as prescribed for deaf state pupils.

"2. In the discretion of the Commissioner of Education a sum not to exceed that provided in paragraph 1 of this section for the instruction of a deaf and blind child within the state shall be available in the manner provided in Section 4210 of this article to aid a blind and deaf pupil in receiving instruction in an institution for the instruction of the deaf or blind located outside the state in order to continue the education of such blind and deaf pupil for the term of instruction provided in Section 4207 of this article." (*Sec. 4209 N.Y. Stats.*)

"1. Whenever a blind or deaf person, who is a citizen of this state and a pupil in actual attendance at a college, university, technical or professional school, including agriculture and technical institutes and state institutes of applied arts and sciences, located in this state and authorized by law to grant degrees, other than an institution established for the regular instruction of the blind or deaf, shall be designated by the trustees thereof as a fit person to receive the aid hereinafter provided for, there shall be paid by the state for the use of such blind pupil from textbooks and pamphlets used by such pupil in his studies at such college, university or school, or to aid a deaf student in receiving instruction in such studies. In case such a college, university, technical or professional school as will meet the needs or requirements of such a pupil is not located within this state, such sum of $500 shall be paid for the use of such pupil to such a college, university, technical or professional school which shall conform to the requirements of this section in another state, while such pupil is attending thereat. Such sum of $500 per annum shall also be available to aid a deaf student in receiving instruction in a regularly approved institution for the deaf located outside of the state but within 150 miles of the borders thereof.

"2. Such money shall be paid annually, after the beginning of the school year of such institution, by the Commissioner of Taxation and Finance on the warrant of the Comptroller, to the treasurer of such institution, on his presenting an account showing the actual number of blind or deaf pupils matriculated and attending the institution, which account shall be verified by the president of the institution and accompanied by his certificate that the trustees have recommended the pupils named in said account as hereinbefore provided.

"3. The trustees of any of the said institutions shall recommend no blind or deaf person, who is not regularly matriculated, and who is not in good and regular standing, and who is not working for a degree from the institution in which he is matriculated, and no blind or deaf person shall be recommended, who is not doing the work regularly prescribed by the institution for the degree for which he is a candidate. The moneys so paid to any such institution shall be disbursed for the purposes aforesaid by and under the direction of its board of trustees." (*Sec. 4210 N.Y. Stats.*)

"The board of education or the board of trustees of each school district shall provide suitable transportation to and from special classes as outlined in subdivision four of this section or section forty-four hundred six of this article, as determined by the need of the individual pupil. Such transportation, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend." (*Sec. 4404 N.Y. Stats.*)

PRIVATE

"1. When it shall appear to the satisfaction of the department that a handicapped child, who, in the judgment of the department can reasonably be expected to benefit from instruction, is not receiving such instruction because there are no adequate public facilities for instruction of such a child within this state because of the unusual type of the handicap or combination of handicaps, the department is authorized to contract with an educational facility located within or without the sate, which, in the judgment of the department, can meet the needs of such child, for instruction of such child in such educational facility, and the department is further authorized to expend for such purpose a sum of not to exceed two thousand dollars per annum for each such pupil.

"2. The school district of which such a child is a resident at the time of admission to such an educational facility shall be required to reimburse the state on account of any expenditure made by the state for such child pursuant to subdivision one of this section in an amount equal to the difference between the per pupil amount expended by such district for operating expense as defined in paragraph a of subdivision five of section thirty-six hundred two of this chapter or the limitation on such operating expense as provided by paragraph b of such subdivision whichever is lesser, and the per pupil aid computed in accordance with paragraph f of such subdivision. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this subdivision, and the amount so deducted shall not be included in the operating expense of such district for the purposes of computing the apportionment for operating expense pursuant to subdivision five of section thirty-six hundred two of this chapter.

"3. The state education department shall maintain a register of such educational facilities which, after inspection, it deems qualified to meet the needs of such child for instruction of such child in such educational facility. Such inspection shall also determine the eligibility of such educational facility to receive the funds hereinbefore specified." (*Sec. 4407 N.Y. Stats.*)

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

The state allows a per pupil reimbursement for the construction of facilities. The cost of the allowance schedule is based on $1750 per pupil for a facility housing kindergarten through grade six; $2300 for a facility housing children in grade seven through nine; and $2350 for a facility housing grade seven through 12. All of these facilities shall include space appropriate for remedial programs for the handicapped. (*Sec. 3602 N.Y. Stats.*)

NORTH CAROLINA

RIGHT TO AN EDUCATION

Constitution: "The General Assembly, at its first session under this Constitution, shall provide for a general and uniform system of public schools, wherein tuition shall be free of charge to all children of the state between the ages of six and 21 years." (*Art. IX, Sec. 2, N.C. Const.*)

Compulsory Attendance Law: If any child is afflicted with mental, emotional, or physical incapacities which make it unlikely that the child could substantially profit by instruction in the public schools, the child need not be presented for enrollment, if evidence of medical, social, psychological and educational evaluation has been presented to the superintendent of the city or county schools showing that the child could not substantially profit by instruction in the public schools. (*Sec. 115-166 NCGS*)

Every deaf child and every blind child between the ages of six and 18 of sound mind who qualifies for admission into a state school for the deaf or the blind will attend a school that has an approved program for the deaf or the blind.

A blind child may attend a public school for not less than nine months each year. Parents, guardians, or persons having control of every blind or deaf child must send the child to some school for their instruction or to a public school. The superintendent of any school for the deaf or blind may exempt a child from attendance at any session or during any year and may discharge from his custody any blind or deaf child whenever such a discharge seems necessary. The exemption or discharge must be reviewed by the board of directors of the school if petitioned by a parent, guardian, or other person having control of the child. No board is required to review any exemption more than once during any calendar year. If a blind or deaf child at the age of 18 is still unable to become self-supporting because of his handicap, he may continue to attend the school until the age of 21 unless he becomes self-supporting prior to that period.

Parents, guardians, or other persons having control of a child between the ages of six and 18 who is deaf or blind and who fail to enroll the child in school are guilty of a misdemeanor. Upon conviction, they will be fined or imprisoned at the discretion of the court. (*Sec. 115-172 and 115-173 NCGS*)

Superintendents of city and county districts are required to report the names and addresses of parents, guardians, or persons having control of any deaf or blind children residing within their unit to the superintendent of the appropriate institution and to the department of public instruction. (*Sec. 115-175 NCGS*)

Responsibilities: Special education classes may be established and organized in any administrative unit or district which has one or more handicapped individuals, with the approval of the state superintendent of public instruction and the state board of education. (*Sec. 115-200 NCGS*)

POPULATION

Definitions: Programs are organized under the supervision of the state superintendent of public instruction for "handicapped, crippled, and other classes of individuals requiring special types of instruction." (*Sec. 115-200 NCGS*)

Age of Eligibility: Handicapped children are eligible for services from birth to adulthood. Services are provided to the deaf and the blind until they reach age 18. If a need exists, services may be extended to age 21 for the deaf or blind. (*Sec. 115-200 NCGS*)

IDENTIFICATION AND PLACEMENT

Census: The state board of education is responsible for adopting necessary rules and regulations for taking a complete census of the school population and maintaining in the superintendent's office of each administrative unit of a continuous census of the school population. If any parent, guardian, or other person having the custody of a child refuses to give authorized persons the necessary information to enable these persons to obtain correct information or who willfully makes any false statement relative to the age or the mental or physical condition of any child, he is guilty of a misdemeanor. (*Sec. 115-161 NCGS*)

If directed by the board of education in the administrative unit the superintendent of that unit shall be responsible for conducting a survey of educable mentally handicapped children. He will report his findings in full to the board and will make periodic reports regarding educable mentally handicapped children as they come to his attention. (*Sec. 115-301 NCGS*)

Screening: Under the general supervision of the state superintendent there is a comprehensive program of physical education and health education. All teachers and principals are required to screen and observe all pupils in order to detect signs and symptoms of deviations from normal, and to report their findings according to state policies.

With the cooperation of the state board of health, the state superintendent will make rules and regulations regarding screening and observation by teachers and for the medical and psychiatric examination of pupils attending the public schools. Chronic remediable defects for underprivileged children may be corrected out of school health funds. (*Sec. 115-204 NCGS*)

Special Education Evaluation: The state superintendent is responsible for prescribing rules and regulations for determining a child's eligibility for placement in the program for the trainable mentally retarded. Placement will be on the basis of adequate individual psychological, sociological, and medical evaluations and other related factors. (*Sec. 115-296 NCGS*)

The state superintendent of public instruction, with the approval of the state board, is responsible for prescribing rules and regulations for determining a child's eligibility for participation in the program for the educable mentally handicapped on the basis of adequate individual, psychological, sociological, and medical evaluations and other related factors. To insure maximum participation by local school administrative units, rules and regulations and other pertinent information will be forwarded to local units in time for them to meet the requirements to qualify for participation in the program. (*Sec. 115-300 NCGS*)

ADMINISTRATIVE RESPONSIBILITY

The state superintendent of public instruction supervises the program for trainable mentally retarded children. (*Sec. 115-296 NCGS*)

The state school for the blind will be under the supervision of an independent board of directors and the superintendent of the school. (*Sec. 115-321 NCGS*)

The state school for the deaf is under the supervision of an independent board of directors and a superintendent. (*Sec. 115-336 NCGS*)

The department of mental health is responsible for supervising all programs in the state schools for the mentally retarded and emotionally disturbed. (*Sec. 122-1 NCGS*)

The program of special education is administered under the state superintendent of public instruction. The state superintendent is authorized to appoint any personnel necessary for: 1) aiding county and city boards of education in organizing classes for the handicapped; 2) recommending plans for the establishment of day classes and schools, common instruction, and other methods of special education and curriculum design; 3) recommending competent medical and psychological authorities to determine eligibility of handicapped children; 4) arranging, when necessary, for handicapped children or adults to attend school in an administrative unit or district other than the one in which the child resides; and 5) cooperating with the state department of public welfare, the state board of health, the state schools for the blind and deaf, the state sanatoria, the children's hospitals, or other agencies concerned with the welfare and health of handicapped persons. (*Sec. 115-200 NCGS*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

The state board of education is authorized to provide from available funds a program of special education. The state board is also authorized to receive contributions and donations to be used in conjunction with any appropriations to carry out the special education program. (*Sec. 115-200 NCGS*)

The state board shall, when sufficient state funds are available, provide first for the allotment of a sufficient number of teachers so as to prevent teacher loads from being too great in any school. The board has discretionary authorization to make an additional allotment of teaching personnel, including special education personnel, to county and city administrative units to be used jointly or separately, as the board prescribes. The salary of all such personnel shall be determined in accordance with the salary schedule adopted by the board. Teaching personnel may also be alloted, at the board's discretion, for experimental purposes, to county and city administrative units. (*Sec. 115-11 NCGS*)

The county and city boards of education may receive gifts to be used for financing programs and centers for the trainable mentally retarded, and they are also authorized to include in their capital outlay and current expense budgets, funds to enable the establishment, maintenance, and operation of these centers or programs. Authorities are also authorized to allow for the levy of proper taxes for these items. (*Sec. 115-297 NCGS*)

The state board of education shall transfer to the state department of public instruction funds to provide personnel to determine the eligibility of children for the program for the trainable mentally retarded and also to administer and supervise the program. The state board of education, upon finding that any school or administrative unit has the need for the program for the trainable mentally retarded together with "official and public interests in evidence of a financial ability and willingness to aid in maintaining a satisfactory program" will transfer to the city or board of education in whose administrative unit the center is located state aid funds available for the operation and maintenance of such a program. The funds will be allocated uniformly to boards of education on a per capita basis with no less than $360 per fiscal year for all eligible children. (*Sec. 115-299 NCGS*)

The superintendent of each school administrative unit is required to submit to the state board of education a statement, certified by the chairman of the board of education, showing the organization of the schools in his unit and any additional information that state board may require. The state board of education shall then determine the number of instructional personnel to be included in the state budget in not more than three categories: general teachers, vocational teachers, and special education teachers. (*Sec. 115-59 NCGS*)

Expenditures in the school budget for the operation of the school system shall be listed by county and city board of education under these separate funds: "[T] he current expense fund; the capital outlay fund; and the debt service fund." The current expense fund includes the cost of purchasing instructional apparatus and equipment and salaries for trained instructors and teachers for preschool and school age children whose hearing is impaired. (*Sec. 115-78 NCGS*)

From the nine months school funds or any other available appropriation, the state board may transfer to the state department of public instruction amounts adequate to provide personnel to administer and supervise the program for educable and trainable mentally handicapped children. (*Sec. 115-304 NCGS*)

When making allotments to administrative units, the state board is authorized to determine the allotment of teachers and any other applicable allotments adequate to support the training program for educable and trainable mentally retarded children even though they exceed the allotments which would be required for a program for normal children and they may make allocations on that basis. The state board may, at its discretion, provide a separate salary schedule for teachers serving this program. (*Sec. 115-305 NCGS*)

If county or city boards of education in any administrative unit or units establish programs for the educable mentally handicapped, they may request from the state board an allotment of teachers for the program and any other applicable allotments. If the programs meet the standards of the state board, the teachers' and other applicable allotments may be provided from the appropriation made to the nine months school fund without any limitations expressed or implied in the amounts for teachers and other allotments for this program. If the request is disapproved for failure to qualify under the rules and regulations or because of lack of funds, the reason for the disapproval must be given in writing to the state superintendent by the state board and to the superintendent of the unit or units making the request and to the advisory budget commission. The directors of the budget, upon request made by the state board, may transfer to the nine-months school fund any state funds which the state board might find available under any budget administered by the board for the purpose of providing funds required for programs which have been disapproved for lack of funds. (*Sec. 115-303 NCGS*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

See Administrative Responsibility.

County and city boards of more than one administrative unit may by written agreement cooperatively operate programs for the educable mentally handicapped. (*Sec. 115-301 NCGS*)

County or city boards of education may establish training programs at centers for trainable mentally retarded children. The boards of adjacent administrative units may, by written agreement, jointly operate such a program or center. Residence within an administrative unit is not a factor in establishing a child's eligibility to attend such a center. (*Sec. 115-296 and 115-297 NCGS*)

SERVICES

County and city boards of education may establish training programs or centers for trainable mentally retarded children. (*Sec. 115-297 NCGS*)

The superintendent of public instruction and the state board of education are empowered to organize and administer "a program of training" for the educable mentally retarded under the general supervision of the superintendent of public instruction. (*Sec. 115-300 NCGS*).

Itinerant teachers may be employed to give special instruction under the same process. (*Sec. 115-200 NCGS*)

County or city boards of education, under their own rules and regulations, may provide for the transportation for children with special needs, such as the mentally retarded and physically handicapped, and children enrolled in programs that require transportation from the school grounds during the school day, such as special vocational or occupational programs. If state funds are insufficient for the transportion approved by the local boards, local funds may be used for this purpose. (*Sec. 115-183 NCGS*)

It is the intent of this Act to provide a comprehensive educational program for preschool hearing impaired and school age hard of hearing children, including a system for identification and evaluation, in a "normal public school environment in their home community." The continuing need for the state's residential schools for the deaf is recognized. (*Sec. 115-315.1 NCGS*)

"Deaf" shall include the congenitally and adventitiously deaf and shall mean "those children in whom a sense of hearing is nonfunctional for the ordinary purposes of life."

"Hard of hearing" refers to children whose hearing "is functional with or without a hearing aid."

"Hearing impaired" is inclusive of both hard of hearing and deaf and refers to "any child in whom there is some substantial degree of hearing impairment which calls for special instruction or special equipment in the learning processes." (*Sec. 115-315.2 NCGS*)

The superintendent of public instruction, subject to the approval of the state board, shall formulate reasonable rules prescribing the program and its procedure for operation for the education of hearing impaired children between the ages of one and six. A child's eligibility for participation, as prescribed by the state superintendent with state board approval, shall be determined on the basis of "individual audiology, medical evaluation and other related factors." Deaf children may be educated in the North Carolina School for the Deaf. Full disclosure to the local school unit of information, rules, and regulations concerning these programs shall be made by the superintendent of public instruction, with a clear distinction made between the programs provided for preschool children and school age children. (*Sec. 115-315.3 NCGS*)

County and city boards of education are authorized to establish programs for preschool hearing impaired and school age hard of hearing children in each administrative unit. Boards of education in more than one administrative unit may jointly operate such programs. At the local board's discretion the local unit superintendent shall conduct a survey of the preschool age children in the unit to determine the identity of the hearing impaired and shall report, "from time to time, any other such hearing impaired children" in the unit when they come to his attention. All preschool children included in the program must be given otological and audiological examination. (*Sec. 115-315.4 NCGS*)

County and city boards of education establishing programs for preschool hearing impaired children and school age hard of hearing children are authorized to levy taxes and expend "any state or local funds appropriated to them under this article" and may also receive gifts to be used for such program if accounted for as public funds. (*Sec. 115-315.5 NCGS*)

After establishing instructional programs for preschool hearing impaired children and school age hard of hearing children, the city or county board of education in any administrative unit(s) may request an allotment of teachers from the state board of education. The state board may provide such teacher allotments from the appropriation made to the nine months school fund. When such a request is disapproved under regulations established by Section 115-315.3, or because of lack of funds, the reason for such disapproval shall be certified by the state superintendent of public instruction to the state board and the superintendent of the local unit. (*Sec. 115-315.6 NCGS*)

The Dean of the School of Medicine of the University of North Carolina is directed to establish in the Department of Psychiatry in the Biological Sciences Division of the Child Development Institute "The Institute for the Treatment and Education of Children Afflicted with Autism and Related Communication Handicaps. (*Ch.1007, Session Laws of 1971*)

The institute will consist of three regional centers. (*Ch. 1007, Session Laws of 1971*)

The function of the institute shall be the identification, evaluation, and education of children with autism and related communication disorders. Educational and training programs for such children shall be offered along with "support and training for their parents." The institute will conduct research, including program evaluation, development of new treatment, educational teachniques, and related programs concerning problems of communication development. The institute will also provide "demonstration classes, train teachers, [and] provide consultation and support classes for communication handicapped children in cooperation with the Department of Public Instruction." The Department of Public Instruction is hereby directed to support and assist the institute in the accomplishment of the functions of the Institute." (*Ch. 1007, Session Laws of 1971*)

To the extent possible, funds from annual program support are to be appropriated equitably to the three regions in appropriate local areas, as determined by the Dean of The School of Medicine, for the establishment of classes for communication for handicapped and autistic children. Classrooms shall serve children in areas outside of regular school districts, and "shall not be considered part of a superintendent's general special education program." Children may be admitted to classes as soon as their educational handicap can be identified. The institute shall assure the active involvement and training of the parents of the children served in the methods of educating such children. (*Ch. 1007, Session Laws of 1971*)

The length of the school day is determined by the boards of education in city and county school districts. The minimum time for which teachers are employed is six hours. However, boards of education may adopt rules and regulations allowing handicapped children and children attending the first and second grades to attend school for a period less than six hours.

PRIVATE

To provide children with an educational opportunity which may not exist in the public schools," it shall be the policy of this state to make an educational experience available to each eligible child" for private or out of state education. (*Sec. 115-316.7 NCGS*)

Children eligible for an educational expense grant include the seriously emotionally disturbed, the severely learning disabled, the visually and/or hearing handicapped and impaired, the multiple handicapped, the mentally retarded, and the crippled or other health impaired child. (*Sec. 115-316.8 NCGS*)

Every exceptional child residing in the state eligible to attend a public school may apply for an education expense grant. (*Sec. 115-316.9 NCGS*)

Such application shall be signed under oath of affirmation by the parent or guardian or the person standing in loco parentis to the child for whom application is made. (*Sec. 115-316.11 NCGS*)

The education expense grant covers the cost of tuition in a private or out of state educational facility but may not exceed $1200 per child per year. (*Sec. 115-316.10 NCGS*)

The state board is authorized to receive sums from the general fund or from other sources the General Assembly may authorize, or from any public or private donor "for the purpose for which they have been provided." The state board shall also establish criteria and procedures for determining who will receive educational expense grants and shall establish criteria for the approval of private and out of state educational facilities. (*Sec. 115-316.12 NCGS*)

PERSONNEL

A scholarship program is established for the purpose of training teachers of the mentally retarded and for training teachers in the use of techniques used for teaching handicapped children. (*Ch. 845, Session Laws, 1963*)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

NORTH DAKOTA

RIGHT TO AN EDUCATION

Constitution: "The legislative assembly shall provide . . for a uniform system of free public schools throughout the state, beginning with the primary and extending throughout all grades up to and including the normal collegiate course." (*Art. VIII. Sec. 147, N.D. Const.*)

Compulsory attendance law: Parents or guardians of deaf children who are at least 4 years of age or any blind or mentally deficient child of at least 7 years and not yet 20, must send the child, if deaf, to the school for the deaf at Devils Lake or to any other adequate institution for the entire school year, unless excused by the superintendent of that institution. If the child is blind, he must be sent to the school for the blind at Grand Forks or any other adequate institution for the entire school year, unless excused; and mentally deficient children must be sent to the state school at Grafton, or any other adequate institution unless excused by the superintendent of the institution. An adequate institution shall mean any school, public or private specializing the training appropriate for the type of handicapped children enrolled. (*NDS Sec. 15-34.102*)

Parents, guardians or other persons having control of a child of compulsory school age are excused from having the child attend school if it is shown to the satisfaction of the school board, subject to appeal as provided by law, that one of the following reasons exists 1. the child is in such mental and physical condition as to render attendance and participation in the regular and special education program inexpedient and impracticable, as evidenced by a licensed physician if required by the board; 2. no school exists, by the direct route within two miles of the child's residence. There are three further qualifications: the child must be in a school district which does not pay for transportation (in accordance with the schedule contained in this chapter), for the equivalent of lodging or tuition from other schools with the approval of the parent or guardian, or furnish vehicular transportation by public conveyance for the child, or 3. no school exists within six miles of the child's residence by the nearest route. This is applicable if the child's residence is within a district which does not furnish vehicular transportation public conveyance for children living more than six miles to nearest school. Reasons 2 and 3 cited above do not apply in the case of deaf, blind, or mentally deficient children. (*NDS Sec. 15-34-03*)

Responsibilities: The school districts may provide special education to exceptional children. They may do so jointly with one or more other districts and shall cooperate with the state advisory council, the director of special education, and the institutions of the state. (*NDS Sec. 15-5904*)

POPULATION

Definitions: " 'Exceptional children' shall mean educable children under the age of 21 whose educational needs are not adequately provided for through the usual facilities and services of the public school districts or state institutions because of physical, mental, emotional, or social conditions." (*NDS Sec. 15-5904*)

Age of Eligibility: Special education services may be provided to children between ages six and 21.

IDENTIFICATION AND PLACEMENT

Census: The school board of education in all classes of school districts must conduct in every odd numbered year, between June 1 and 20, a census of all unmarried persons under age 21 residing in the school district.

The following information is to be collected during the census:

1. "The names of all deaf, blind, and mentally deficient persons between the ages of five years and 25 years residing in the district, including all such persons who are too deaf or mentally deficient to acquire an education in the common schools."
2. The names and ages of all crippled persons of any age, residing in the district, and
3. The names and post office addresses of the parents or guardians of all persons mentioned above.

The census returns must be sent to the county superintendent before July 15. A copy of the report is retained in the office of the clerk of the school district. (*NDS Secs. 15-2513 and 15-4713*)

After completion of the census, county superintendents are required to forward a copy of the enumeration of deaf persons to the superintendent of the school for the deaf, of blind persons to the superintendent of the school for the blind, and of mentally deficient persons to the superintendent of the Grafton State School. (*NDS Sec. 15-47-13*)

If county superintendents report any persons of school age who are alleged to be physically or mentally defective to the county board of health, the board must investigate the report and direct the school board, board of education, or the person in charge of the child to take any necessary action. (*NDS Sec. 15-4723*)

The births of all children with a visible, congenital deformity must be reported to the division of child welfare within three days of the birth. The report must include the date and place of birth, sex, names of the parents, name of the physician or other persons attending the birth, diagnosis and description of the deformity, and any other required information.

Children born out of wedlock with a congenital deformity in a licensed maternity home or hospital must be reported by the licensee of the home or hospital. All births occurring outside of maternity homes or hospitals will be reported by the physician in attendance. In the absence of a physician, the registered nurse or other attendant is responsible for reporting. (*NDS Sec. 50-2002 and 50-2003*)

IDENTIFICATION AND PLACEMENT

Census: Every public school superintendent, physician, ophthalmologist, oculist, optometrist, nurse, clinic, hospital, and social and welfare agency are required to report in writing to the North Dakota School for the Blind the name, age, and residence of all persons under 21 years of age who are blind within the definition of blindness. They are also required to furnish any additional pertinent information requested by the superintendent of the school. All reports must be forwarded to the superintendent within 30 days after diagnosis, examination, or discovery. A blind person shall be defined as one who is totally blind or whose central visual acuity does not exceed 20/200 in the better eye with corrective lenses or if the widest diameter of his visual field is no greater than 20 degrees. (*Sec. 1 Chapter 273, 1971*)

Every public school superintendent, physician, otologist, audiologist, nurse, clinic, hospital, and social and welfare agency must report in writing to the superintendent of the North Dakota School for the Deaf the name, age, residence, and any other pertinent information of all persons under 21 years of age who are deaf or hard of hearing. All reports must be forwarded to the superintendent within 30 days after diagnosis, examination, or discovery. (*Sec. 2, Chapter 273, 1971*)

ADMINISTRATIVE RESPONSIBILITY

The superintendent of public instruction, with the advice of the advisory council, shall employ a qualified director of special education and any other necessary personnel. (*NDS Sec. 15-5903*)

The advisory council on special education, acting through the office of the superintendent of public instruction, is responsible for establishing general state policy for the special education program and for coordinating all available services. They also cooperate with private agencies, soliciting their advice and cooperation in establishing policy in the coordination and development of special education programs. (*NDS Sec. 15-5902*)

The director of special education, with the approval of the advisory council, prescribes the rules and regulations for special education and assists the school districts in the inauguration, administration, and development of special education programs. The director also establishes standards and approves certification of schools, teachers, facilities, and equipment. (*NDS Sec. 15-5905*)

The director of institutions establishes the rules and regulations for the program of sending deaf-blind children to out-of-state schools and institutions. (*NDS Sec. 15-47-34*)

State institutions for the deaf, blind, mentally deficient, and emotionally disturbed are under the supervision of the director of institutions.

PLANNING

Statutes contain no specific provision for the handicapped in this area.

FINANCE

Exceptional children enrolled in approved programs are considered as regularly enrolled in school and are included in the determination of payments for elementary and high school pupils from the county equalization fund, whether or not the pupils are regularly attending school in the district receiving such payments. If the director determines that: (1) the school district has expended for each exceptional child an amount equal to the average expenditures made in the district for elementary or high school students; (2) the parents or the legally responsible person of the child receiving special education under the program have made adequate efforts to provide needed education; or (3) adequate reasons otherwise exist for the provision of special education to the child, the director may reimburse the school district in an amount not exceeding 1 1/2 times the state average per pupil cost of education for the previous school year for each child and 2 times the state average per pupil cost of education the previous year for each child for transportation, equipment, and residential care. (*NDS 15-5906*)

Children attending state schools for the deaf receive a free education. (*NDS 25-07-04*)

Parents and guardians of children attending the Grafton State School for mentally ill and mentally retarded children are responsible, on an ability to pay basis, for the actual cost of their treatment and care until the children reach age 21. After age 21, the state pays all costs. (*NDS Sec. 25-09-04*)

The North Dakota finance committee pays, from the county equalization fund to the state school for the blind and the state school for the deaf, per pupil costs of the actual educational costs. (*NDS Sec. 15-4.01-07*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The county superintendent of schools shall appoint a county board of special education, consisting of three to five members at large. Each member must be approved by the board of county commissioners. The county board annually prepares a budget and a program for special education. These are submitted to the board of county commissioners at the same time and in the same manner as other budget statements and matters are filed.

If the program is approved by the county commissioners, funds may be budgeted from a county general fund or, following approval by a majority of the voters at an election called by the county commissioners, a tax not exceeding three mills on all taxable property in the county may be levied to carry out the special educational program. This mill levy is over and above any other mill levies provided by law and is collected and paid in the same manner as other county property taxes. The proceeds of this tax and any other funds received from the state or from other sources for special education are credited by the county treasurer to a special education fund. These funds may be expended only within the limitations of the budget approved by the county commissioners.

If, at least 30 days in advance of any regular county election, a petition signed by five percent of the electors of the county is filed, the question of whether to continue the mill levy will be submitted to the voters. If it is disapproved by a majority of the voters, the levy will be immediately discontinued but previous levies will not be invalidated. A subsequent vote upon this same question may be conducted at any county election if a petition containing the signatures of five percent of the voters is filed with the county commissioners.

The county board may contract with any school district inside or outside of the county to provide special educational services for educable handicapped children. After approval by the county commissioners, the program plan and budget must be submitted to the department of public instruction for approval. If the county plan is approved by the department, state payment for special education will be paid to the county board. If the budget and program are not approved, the payments will be made to the school districts directly providing special education facilities. County boards will be reimbursed in the same manner as local school districts.

The county commissioners of two or more counties may decide to form a multiple county board of special education. The board will consist of one member, appointed by the county superintendent from each county commissioner district within the counties. The multiple county board of special education shall designate one of the county treasurers to act as treasurer of special education funds. The board also designates one of the county superintendents to act as secretary and executive officer of the board. Remaining members perform any duties in connection with the special education program designated by the multiple county board. The approval procedure and the raising of the mill levy is the same for multiple boards as it is for individual boards.

Any county may withdraw from a multiple county program by resolution of their board of county commissioners. The withdrawal takes effect one year after notice of withdrawal is given to the remaining boards of county commissioners. The withdrawing county remains obligated for those costs prorated to it for the period prior to the effective date of withdrawal.

School districts in counties which have not adopted county or multiple county programs will continue district special education programs only until county or multiple county boards of special education are appointed. (*NDS Sec. 15-59.1-01 to Sec. 15-59.1-10*)

SERVICES

" 'Special education' shall mean the provision of facilities, instruction, supervision, and other necessary services as not otherwise provided such children in the public schools and institutions except that facilities and instructions and supervision and other necessary services may be provided for blind children even though the same are provided in state institutions."(*NDS Sec. 15-5901*)

Boards of County Commissioners shall order the county to pay transportation expenses to and from the school for the deaf for indigent children. When levying other taxes, they shall levy a sum sufficient for such transportation. In order to avoid delay, the superintendent of the school may pay for the transportation and forward an itemized statement of the expense to the county auditor. The board of county commissioners shall then order the repayment to the superintendent who will account for such money to the director. (*NDS Sec. 25-07-07*)

The school for the deaf at Devils Lake shall be considered as part of the system of free public schools in the state. (*NDS Sec. 15-47-02*)

The director of institutions may send deaf-blind children, under age 21 and for whom there are no facilities within the state, to any school or institution outside North Dakota, providing there is an approved program for such children. Funds may be spent for room, board, tuition, transportation, and other items necessary for the education for these children. (*NDS Sec. 15-47-34*)

No transportation shall be furnished to a deaf, blind, or mentally deficient child who is not attending the public schools of the district. (*NDS Sec. 15-34-07*)

Children attending the state school for the deaf must be transported to the school by their parents or by the county in which the child resides. (*NDS Sec. 25-07-04*)

PRIVATE

Any school district having physically handicapped or learning disabled children for whom the district has no public schools with the necessary facilities which will accept them, shall contract with an accredited, private, non-sectarian, non-profit corporation inside or outside the state if there are no public schools with the necessary facilities which will accept such children. Before any school district contracts with any private agency, the curriculum and the contract must be approved by the superintendent of public instruction. (*NDS Sec. 15-5907*)

When the school district contracts with a private agency, the contract must stipulate that the school district pays the private agency an amount for the school year equal to three times the state average per pupil elementary or high school costs. If a physically handicapped or learning disabled student will be attending for less than a school year, the cost will be prorated on a monthly basis. The school district shall count any student attending school under such an arrangement as a regularly enrolled student of the district, which makes the district eligible for reimbursement from state foundation funds for 60 percent of expenditures. (*NDS Sec. 15-5907*)

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

OHIO

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall make such provisions . . . as . . . will secure a thorough and efficient system of common schools throughout the state . . . ." (*Art. b, Sec. 2, Ohio Const.*)

Compulsory Attendance Law: A child between the ages of six and 18 is of compulsory school age. All children are subject to the rules relating to compulsory education, and neither they nor the person in charge of them are excused from the compulsory requirements because the children's residence is seasonal, the parents of the children are a resident of another state, or the children have attended school for the legal period in another state. (*Sec. 3321.01 and 3321.02 ORS*)

The parent, guardian, or any other person having control of a child of public school age who has not been determined to be incapable of profiting substantially by further instruction will cause the child to attend a school conforming to the minimum standards prescribed by the state board for the full-time school is in session. (*Sec. 8321.03 ORS*)

Excuses from future attendance at the school and past absences may be granted by the authorities if the superintendent of the schools of the district of the child's residence excuses him from attendance for any part of the remainder of the current school year, upon satisfactorily demonstrating that the child's physical or mental condition does not permit his attendance at school during the period. In each case, the issuing superintendent will file in his office a copy of the excuse, demonstrating how the inability of the child to attend school was determined. All these excuses become void and subject to recall upon the removal of the disability of the child. Then, the child or his parents, guardians, or other persons having control of the child may be proceeded against after due notice whether or not the excuse is recalled. The board of education of the city, exempted village, or county school district in which a public school is located, or the governing authority of a private or parochial school may prescribe, under the rules and regulations governing the discipline of schools, the authority by which and the manner in which any child may be excused from absence from the school for any sufficient reason. (*Sec. 3331.04 ORS*)

A child of compulsory school age may be determined to be incapable of profiting substantially by further instruction. The state board may prescribe standards and examinations or tests by which the incapacity may be determined as well as prescribe and approve the agencies or individuals by which they will be applied and conducted. The capacity of a child to benefit substantially by further instruction must be determined with reference to the specific instruction available to the particular child in the public schools of the district in which he resides. No child may be determined to be incapable of profiting substantially by further instruction if the superintendent of public instruction, pursuant to board standards, finds that it is feasible to provide him (in the district or elswhere in the public school system) special classes or schools, or individual instruction through which he might substantially profit according to his mental capacity. In prescribing, formulating, or applying such standards, examinations, or tests, the state board may call upon, for assistance and advice, any other department or bureau of the state or any appropriate department of any university supported wholly or partly from state appropriations.

The results of the examinations or tests, and the recommendation of the agency or individual conducting them are reported to the superintendent who, subject to the standards of the board, may make the determination about the child. If the child is determined to be incapable of profiting substantially by further instruction, that determination will be certified by the superintendent of public instruction to the district superintendent who shall place the child under the supervision of a visiting teacher or the attendance officer to be exercised as long as the child is of compulsory school age. The superintendent of public instruction shall keep a record of all children determined to be incapable of profiting substantially by further instruction and a similar record will be kept by the superintendent of the district. Upon request of the parents, guardians, or persons having control of the child whose residence has been changed to another district, the superintendent of schools will forward the card showing the status of the child to the superintendent of the district into which a child has moved. The state board of education may revoke any determinations made under this section. A child determined to be incapable of profiting substantially by further instruction will not be admitted to the public schools of the state while the determination remains in force. (*Sec. 3321.05 ORS*)

Children whose attendance is deemed inimical to the health, safety, or welfare of other pupils in the schools may be suspended or expelled. (*Sec. 3316.66 ORS*)

Responsibilities: Upon the petition of the parents or guardians of eight crippled or slow learning children in any school district, the board of education in that district shall apply to the state board for permission to establish a special class. If permission is granted, the class shall be established not later than the beginning of the following school year. (*Sec. 3323.04 ORS*)

Any district in which physically or emotionally handicapped children, who not even with the help of transportation are able to be assembled in a school, will be provided home instruction. (*Sec. 3323.05 ORS*)

POPULATION

Definitions: "Any person of sound mind, by reason of defective hearing or vision, or by reason of being so crippled as to be physically unable to properly care for himself without assistance cannot properly be educated in the public schools as other children, shall be considered deaf, blind, and crippled within the meaning of sections 3323.01 and sections 3323.08 of the revised code. Persons with partial vision may also be instructed under such sections." (*Sec. 3323.03 ORS*)

A trainable retarded person is defined as "a person who has been determined by the proper authorities to be ineligible for enrollment in the public school because of mental deficiency of such nature and such degree that the person is incapable of profiting substantially by any educational program which should be provided by such public school." (*Sec. 5217.01*)

Age of Eligibility: The state board of education may grant permission to any board to establish and maintain classes for the instruction of deaf or blind persons over age three and one class for physically, emotionally, or mentally handicapped children over age five. Services are mandated to age 18 and may be extended to 21. (*Sec. 3323.01*)

IDENTIFICATION AND PLACEMENT

Screening: The state board of education or department of health may provide for the medical examination of school children including vision and hearing screening. (*Sec. 3313.68 and 3313.69*)

Special Education Evaluation: The state school for the deaf is open to residents of the state who are deaf, partially deaf, and both blind and deaf, who in the judgment of the superintendent of public instruction and the superintendent of the school are not able to benefit from education in the public schools and are suitable persons to receive instruction according to the methods employed at the school. The superintendent of the school for the deaf may pay the expenses necessary for the instruction of children who are deaf and blind residents of the state in any suitable institution. (*Sec. 3324.011 ORS*)

Blind and partially blind residents of the state, who cannot be educated in the public schools due to their handicap and are suitable persons to receive instruction according to the methods employed by the school, are eligible for admittance into the school for the blind. (*Sec. 3325.02 ORS*)

Any child attending the school for the deaf or blind who, in the opinion of the superintendent of the school and the superintendent of public instruction, is not making sufficient progress in the school or industrial work to justify his continuance as a pupil in the school may be returned to his parents, guardians, or proper agency. (*Sec. 3325.03 ORS*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education will select competent persons to inspect at least once a year all classes and to direct and supervise other special education services and to report concerning the instruction in these classes, the conditions under which they are maintained, the conditions under which any persons enrolled in the classes are boarded, and the extent and nature of all other services related to education affecting physically, emotionally, or mentally handicapped persons. The state board will also prescribe standard requirements for physically and mentally handicapped children and for the instruction and services of all types of handicapped children for which all school districts are entitled to state reimbursement or aid.

These requirements shall include: conditions under which the schools are conducted, services are rendered, methods of instruction, child study, counseling adjustment, program supervision, the qualification of teachers and personnel in charge of child study and counseling and the conditions and terms under which they are employed, the special equipment and agencies for instruction provided and the conditions of the rooms and buildings in which the schools are held. (*Sec. 3323.02 ORS*)

The department of mental hygiene and correction is responsible for administering the programs for the trainable. (*Sec. 5119.60 ORS*)

The state school for the deaf and the state school for the blind are under the control and supervision of the state board of education. The state board will appoint a superintendent for the state school for the deaf and a superintendent for the state school for the blind, each of whom will serve at the pleasure of the state board. (*Sec. 3325.01 ORS*)

PLANNING

Approval of funds for special education programs will be contingent upon approval of a comprehensive plan for special education approved by the state board no later than July 1, 1973. The state board may not approve a school district's plan unless the proposed plan meets the educational needs of handicapped children in that school district and other districts in the same area. Each district must submit a plan to the state board by December 1, 1972, containing the following:

1. Provision for an organizational structure and necessary staffing for the identification and placement of handicapped children in appropriate programs.
2. Provisions for an organizational structure for the necessary supervision and staffing of programs and services.
3. Provision for the programs and services necessary to meet the educational needs of every handicapped child in the school district in accordance with standards and eligibility criteria of the state board.

When approving the organization of special education, the state board must provide that no school district be excluded from the state-wide plan. A district may have a plan providing for a cooperative arrangement with one or more other school districts to provide classes or other special programs of instruction for all physically, emotionally and mentally handicapped children resident of that school district; or a district may contract with another school district for service in such classes which meet the established standards in compliance with this section.

The state board must submit an interim report no later than February 1, 1973 to the chairman of the House and Senate Committees on Education containing the board's preliminary recommendations for implementing the comprehensive plan. The report must include but is not limited to the following items: an analysis of the kinds and extent of special education services to be provided through the comprehensive plan, cost projections for implementing the plan, and an analysis of the availability of qualified personnel to implement the plan. The chancellor of the Ohio board of regents shall provide to the state board upon request any information the board deems necessary to analyze personnel availability. (*Sec. 3323.011 ORC*)

FINANCE

In addition to state minimum foundation aid, districts having special education units for deaf, blind, emotionally disturbed, crippled or educable mentally retarded, neurologically handicapped, or emotionally disturbed children receive an additional $1,000 for each unit. The number of each school district's certified employees, used in the calculations of this sum, may not exceed the number of approved classroom units of this school district, nor may the number of units used in the calculation exceed the number of employees if that school district operates on a trimester or quarterly plan. If the district is on a trimester plan, the number of employees may be 1 1/2 times the total number of certified employees. In a quarterly plan the district may receive funds for 1 1/3 the total number of certified employees. (*Sec. 3317.02 ORS*)

By October 10 each year, the superintendents of schools of all districts must certify, to the state board of education, the total yearly membership in regular day classes for the first full school week in the month of October as well as the average daily membership of all deaf, blind, emotionally disturbed, crippled, and educable mentally retarded children in classes approved annually by the state board of education. No child shall be counted more than once in the average daily membership by the school district. (*Sec. 3317.03 ORS*)

This total number of classroom units for each school district will be a sum of the following: "(d) the number of classroom units for deaf, blind, emotionally disturbed, or crippled children or fraction thereof approved annually by the state board of education on the basis of standards, rules and regulations adopted by the board; (e) the number of special education classroom units or fractions thereof including those for educable mentally retarded children with an intelligence quotient of at least fifty and not more than eighty and for speech handicapped children, and for child study services approved annually by the state board of education on the basis of standards, rules, and regulations adopted by the board; (f) the total number of classroom units is then divided by 8.

"These classroom units are included in recognition of the administrative, supervisory, and specialized personnel required in addition to classroom teachers. The total number of classroom units approved annually for special education cannot exceed the number of classroom units included in the state board of education estimate of school foundation program cost." (*Sec. 3317.05 ORS*)

In addition to funds paid to districts through the minimum foundation program, they may receive an amount for the approved cost of board and transportation for physically and emotionally handicapped children attending regular education classes.

Cost of teacher training (See Personnel) and the approved cost of home instruction for physically or emotionally handicapped children and other special instructional services for physically or emotionally handicapped children are also reimbursed. The distribution of these funds is made on the basis of standards adopted by the state board of education. (*Sec. 3317.06 ORS*)

By June 30 each year, county child welfare boards must report, to the commissioner of mental hygiene, the names and addresses of all persons enrolled in a training center or workshop for the mentally deficient (trainable mentally retarded), the period of time each person was enrolled, an itemized report of the expenditure as approved by the commissioner, and the net per capita cost for operating the training center and workshop. After approval, the division of mental hygiene will reimburse the agency operating the center up to $300 per year for each person enrolled in the training center or workshop. (*Sec. 5217.03 ORS*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If a child attends a special education class in a district other than his district of residence, the board of education of the servicing district may require a payment from the sending district at a tuition rate not exceeding the tuition rate for a child in a regular class in the same grade. The district of residence of a child may contract with the board of another district to transport the child into any school district on terms agreed by both boards. Under the direction of the state board of education, the district of residence will pay for transportation and tuition costs. (*Sec. 3323.10 ORS*)

If the tuition rate paid by the sending district exceeds the per capita cost for the instruction of the child, the board of education of the sending district shall pay directly to the board of the servicing district the excess cost as determined by a formula approved by the department of education and agreed upon in contracts entered into by the boards of the districts concerned at the time the district operating the special class accepts the child for enrollment. (*Sec. 3323.11 ORS*)

Tuition rates for handicapped pupils receiving special services in a district other than their district of residence are determined by computing the total expenditures of the schools in the receiving district. The operating cost is computed by deducting the amounts expended for capital outlay, permanent improvements, debt service, transportation, operation of school lunchrooms, tuition to other school districts, operation of kindergarten classes, operation of summer schools, part-time school, evening schools, and maintenance of playgrounds from total expenditures. Depreciation charges not exceeding three percent and annually based on the actual cost to the district may be added, plus any amount of private donations or grants. Federal grants and all property except land used in conducting the school will be substracted from the total. From the operating cost plus depreciation charges will be deducted the proceeds of all state monies apportioned to the district, interest on the irreducible debt and income from school trusts and land rental funds. The remainder is divided by the number of pupils in daily membership in grades one to 12 inclusive. Attendance for any part of the month is regarded as attendance for a month unless the annual session is terminated before the end of the full month. The amount of tuition computed in this section must be certified by the board of education in the district of attendance to the board of education of the district of residence for approval and payment. If no agreement is reached as to the amount payable or if the board of education of the district of residence refuses to pay the amount, the board of education of the district of attendance will notify the superintendent. The superintendent will then determine the correct amount and will deduct the same from the amount of state funds, if any, allocated to the district of residence and transfer them to the receiving district. The superintendent will send to the district of residence an itemized statement showing any deductions. (*Sec. 3317.08 ORS*)

See Facilities.

SERVICES

Teachers of the homebound and teachers in special education classes are appointed in similar fashion to other public school teachers. They must possess the usual qualifications required of teachers in the public schools and any special training requirements the state board of education or local boards may require.

The so-called "oral system" must be taught by teachers in the schools for the deaf and if, after a fair trial of nine months, any child is unable to learn by this method he may then be taught the manual method at a separate school. (*Sec. 3323.06 ORS*)

The districts may maintain child study, counselling, adjustment, and special instructional services, including home instruction, for persons over age five whose learning is retarded and who are impaired by physical or emotional handicaps. (*Sec. 3323.01 ORS*)

The state board of education may arrange with any board of education maintaining a class for the instruction of blind, deaf or crippled persons to provide special instruction for nonresident children and to pay for the board of any person. (*Sec. 3023.12 ORS*)

The board of education in any school district may establish special schools for persons with tuberculosis and may have all such children excluded from the regular schools. They may provide for transportation to and from special schools from school funds. The board of any school district in which is located a state, district, county, or municipal hospital for children with tuberculosis or epilepsy, as well as any public institution except state institutions for the care and treatment of delinquent, unstable, or socially maladjusted children, will provide for the education of all educable children in the institution.

If another school district within the same county or an adjoining county is the source of 60 percent or more children in a hospital or institution, the board of that district will educate all children within the institution. In any case, the board providing the educational facilities will be entitled to all monies authorized for the attendance of pupils provided for the education foundation program, tuition, and any additional compensation provided for crippled children. Any board which provides the educational facilities for children in a county or municipal institution established for the care and treatment of children who are delinquent, unstable, or socially maladjusted will not be entitled to any money provided for crippled children. (*Sec. 3313.55 ORS*)

PRIVATE

School districts may receive from the state board, in addition to minimum foundation funds, an amount approved by the state department to provide services and materials for pupils attending non-public schools within the district for programs for the deaf, blind, emotionally disturbed, crippled, and physically handicapped, including speech and hearing therapy services. The services presented to children in non-public schools of the state are on the same basis as those to children who are attending the public schools of the state. (*Sec. 3317.06 ORS*)

PERSONNEL

The state board of education may arrange, by written agreement with the board of trustees of any college or university, with the teacher education department of the college or university for classroom and in-service training of teachers of handicapped children. (*Sec. 3323.01 ORS*)

FACILITIES

"(A) The boards of education of any two or more school districts may, subject to the approval of the superintendent of public instruction, enter into agreements for the joint or co-operative construction, acquisition, or improvement of any building, structure, or facility benefiting the parties thereto, including, without limitation, schools and classrooms for the purpose of Chapter 3323, of the Revised Code, and for the management, operation, occupancy, use, maintenance, or repair thereof, or for the joint or co-operative participation in programs, projects, activities, or services in connection with such buildings, structures, or facilities.

"(B) Any agreement entered into under authority of this section shall, where appropriate, provide for:

(1) The method by which the building, structure, or facility shall be constructed, acquired, or improved and by which it shall be managed, occupied, maintained, and repaired, and specifically a designation of one of the boards of education to take and have exclusive charge of any and all details of construction, acquisition, or improvement, including any advertising for bids and the award of any construction or improvement contract pursuant to the law applicable to such board of education;

(2) The manner in which the title to the buildings, structures, or facilities, including the sites and interests in real estate necessary therefor, is to be held by one or more of such boards of education;

(3) The management or administration of any such programs, projects, activities, services, or joint exercise of powers, which may include management or administration by one of said boards of education;

(4) The manner of apportionment or sharing of all of the costs, or specified classes of costs, including without limitation costs of planning, construction, acquisition, improvement, management, operation, maintenance, or repair of such buildings, structures, or facilities, or of planning and conducting such programs or projects, or obtaining such services, which apportionment or sharing may be based on fixed amounts, or on ratios or formulas, or effected through tuitions to be contributed by the parties or in such manner therein provided.

"(C) Any agreement entered into under authority of this section may provide for:

(1) An orderly process for making determinations as to planning, execution, implementation, and operation, which may include provisions for a committee, board, or commission, and for representation thereon;

(2) Securing necessary personnel, including participation of teachers and other personnel from the respective school districts;

(3) Standards or conditions for the admission or participation of students and others, including students from other school districts;

(4) Conditions for admittance of other school districts to participation under the agreement;

(5) Fixing or establishing the method of determining special charges to be made for particular services or materials;

(6) The manner of amending, supplementing, terminating, or withdrawal or removal of any party from the agreement, and the term of the agreement or an indefinite term;

(7) Designation of the applicants for or recipients of any state, federal, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;

(8) Designation of one or more of the participating boards of education to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the agreement, including without limitation those required under sections 3301.14, 3313.50, 3319.32 to 3319.37, inclusive, 3321.12, 3323.08, and 3323.13 of the Revised Code;

(9) Such other matters as the parties thereto may agree upon for the purposes of division (A) of this section.

"(D) For the purpose of paying or contributing its share under an agreement made under this section, a board of education may:

(1) Appropriate any monies from its general fund, and from any other funds not otherwise restricted by law, including funds for permanent improvements of such board of education where the contribution is to be made toward the cost of permanent improvements under the agreement;

(2) Issue bonds, and notes in anticipation thereof, under sections 133.01 to 133.65, inclusive, and section 3311.20 of the Revised Code for any permanent improvement, as defined in section 133.01 of the Revised Code, to be provided under such agreement;

(3) Levy taxes, and issue notes in anticipation thereof, under Chapters 3311. and 5705. of the Revised Code pertaining to such board of education, provided that the purpose of such levy may include the provision of funds for either or both permanent improvements and current operating expenses required as the share of such board of education under such agreement;

(4) Contribute real and personal property for use under such agreement without necessity for competitive bidding on disposition of such property.

"(E) Funds provided by the parties to an agreement entered into under this section, whether by appropriation, the levy of taxes, the issuance of bonds or notes, or otherwise, shall be transferred to and placed in a separate fund or funds of such participating board of education as is designated for such purpose under the agreement, shall be appropriated to and shall be applied for the purposes provided in such agreement, and shall be subject to audit and inspection and, pursuant to any determinations to be made as provided under such agreement, and shall be deposited, invested and disbursed under the provisions of law applicable to the board of education in whose custody said funds are held; and the records and reports of such boards of education under Chapter 117. of the Revised Code with respect to said funds shall be sufficient without necessity for reports thereon by the other boards of education participating under such agreement.

"(F) As used in this section, 'construction, acquisition, or improvement of any building, structure, or facility' also includes acquisition of real estate and interests in real estate therefor, site improvements, and furniture, furnishings and equipment therefor. Buildings, structures, or facilities constructed, acquired, or improved under this section may, subject to the agreement be used for any lawful purpose by each party so long as the use thereof is an authorized proper use for that party.

"(G) Any agreement entered into under this section shall be subject to any laws hereafter enacted making express reference therein to this section and requiring the transfer of any functions exercised or properties held under such agreement to any public officer, board, or body heretofore or hereafter established, or requiring the termination of such agreement, or otherwise affecting the same.

"(H) The powers granted in this section are supplementary to, and not in derogation of or restriction upon, all other powers of boards of education of school districts, and are to be liberally construed to permit the achievement of the objectives of this section and to permit the boards of education to take advantage of federal grant and loan programs, provided that the exercise of such powers shall be subject to such inspection and regulation as would be applicable if exercised under any other provision of the Revised Code." (*Sec. 3313.92 ORS*)

OKLAHOMA

RIGHT TO AN EDUCATION

Constitution: "Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control . . ." (*Art. I, Sec. 5, Okla. Const.*)

Compulsory Attendance Law: A child, subject to compulsory attendance requirements is excused from these provisions if he "is prevented by mental or physical disability as determined by the board of education by a certificate of the school physician or public health physician or if no such physician is available, a duly licensed and practicing physician. (*Sec. 70-10-OS*)

All children who are so deaf or so hard of hearing that they cannot participate in the regular public school program shall receive an appropriate education at state expense. All school districts are responsible for identifying such children between the ages of 2 and 21. At the earliest possible age under procedures prescribed by the state board. Every parent or other person having custody of such a child must enroll the child at a school providing appropriate education. (*Enrolled House Bill, 1777, 1970*)

Responsibilities: After September 1, 1970, all school districts must provide special education for all handicapped and exceptional children defined by this act. (*Sec. 13-1 OS*)

POPULATION

Definitions: "Exceptional children shall mean gifted children, educable mentally handicapped children, trainable mentally retarded children, speech defective children, emotionally disturbed children or perceptually handicapped children, children with special health problems, children requiring the services of a visiting counselor, children with specific learning disabilities as a result of neurological impairment, multiple handicapped children, and other handicapped children of four years of age as of the first day of November of the school year and blind or partially blind children and deaf and hard of hearing children two years of age or older who are bona fide residents of this state, whose condition is such that it is impracticable or impossible for them to benefit from or participate in any classroom program of the public schools in the districts in which they reside and whose education requires a modification of the classroom program." (*Sec. 13-1 OS*)

Age of Eligibility: Partially blind, blind, deaf, and hard of hearing children may begin receiving services at age two. All others begin at age four. Special education services end at age 21 except in special cases where a physical condition prevents a child from completing his program by age 21. In that case, services may be extended until the child reaches age 25. (*Sec. 13-105 OS*)

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: The board of education in which a child resides is responsible for determining the child's eligibility for special education under rules and regulations approved by the state board of education. Exceptional children must be reevaluated at least once every three years. Children eligible for special education services will be entitled to them for a minimum period of 12 years. If a child is transferred from one district to another, the state board of education may promulgate rules and regulations for the reimbursement to the local board for payment of services for psychologists and physicians necessary to determine the child's eligibility. If a child is accepted for special education and instruction, reimbursement will be made to the local board for expenditures made for necessary reevaluation. (*Sec. 13-2 OS*)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for establishing necessary rules and regulations, setting rates for reimbursement for physical and occupational therapists, teachers of homebound children, home to school telephone instruction, board and room for transferred handicapped children to attend a special class, travel for transporting handicapped and exceptional children within or without the district and also for teacher travel to provide these services to handicapped children in homebound, cooperative, or county programs. (*Sec. 13-8 OS*)

The state board of education is also authorized to prescribe the qualifications for all persons teaching exceptional children, to define, classify, and determine the standards of eligibility for exceptional children for program participation, and to make any other necessary rules and regulations for the teaching of exceptional children. (*Sec. 13-5 OS*)

The department of mental health has control of all state institutions for the care of the mentally ill. (*Sec. 32 OS*)

The department of institutions, social, and rehabilitation services is responsible for the supervision of the state schools for the deaf, blind and mentally retarded. (*Sec. 36-21 OS*)

The institutions for the mentally retarded may contract with local public schools to provide services to children in the institutions. These classes are eligible for state aid.

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

Attendance of children in special education classes will be included in the average daily attendance computation in the foundation appropriations programs for state aid. (*Sec. 13-1 OS*)

No funds received by a district for special education are considered part of the chargeable income of the district for state aid purposes. Also, none of the funds for special education may be received for:

1) any teaching unit or class with less than eight educable mentally handicapped children;

2) any teaching unit for speech defective children with a number less than that specified by the state board of education;

3) any teaching unit or class consiting of children who are both deaf and blind except for the program mentioned in "Services" which is a direct state program, or

4) any teaching unit or class organized with less than five of any other type of exceptional child. (*Sec. 13-8 OS*)

Special education now financed on a flat grant basis as follows: For each class that did not receive the $4500 grant in 1970-71, the district shall receive $4000 in 1971-72. All federal funds used in the special education must be above the flat grants from state appropriations. Each class funded for $4500 in 1970-71 shall receive $4500 in 1971-72. Each new class started in 1971-72 and 1972-73 shall receive $5000.

$600,000 is appropriated to establish new special education classes, and in no way may this be used by districts for existing classes. The legislature has the precise intention of establishing new programs in districts not presently offering programs and additional types of special education in districts not presently offering such programs. They particularly wish, but not exclusively, to encourage new classes for children with learning disabilities in districts not presently offering them.

"If any school district shall fail, neglect or refuse, for any reason whatsoever, to provide special education for a handicapped exceptional child, certified as such by competent authorities and residing in such district, as directed in Section 13-1 of Title 70 of the Oklahoma Statutes, the following is hereby authorized: Such child shall be entitled upon petition by the child's parent or guardian, without consent or approval of the school district not providing special education, to transfer to any adjacent or nearby school district which will accept the handicapped exceptional child and provide the special education which such child is entitled to receive. The school district in which a child transferring under this section resides shall pay to the district receiving and educating such child, as tuition, a special education transfer fee as provided in paragraph 2 of this section. Provided the average daily attendance of such child shall be credited to the home district of such transferee. The special education transfer fee shall be the per capita cost of the receiving district for current expenditures for the special education of such handicapped exceptional child based upon the cost of teachers, equipment, material, and special costs associated with the special education class. It shall be the duty of the school district from which such handicapped exceptional child transfers to appropriate and pay such special education transfer fee to the district which receives and educates such child. If a school district owing such special education transfer fees shall fail, neglect, or refuse for any reason whatsoever to appropriate and pay such special education transfer fees, then the school district entitled to receive such fees shall certify such fact to the finance division of the state department of education. Upon receipt of such certification, the finance division shall deduct the amount of the special education fee from any state foundation program or incentive aid otherwise due the sending district and transmit such amount to the receiving district. (*Sec. 9 and Sec. 10, House Bill 1163, 1971 Leg. Session*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

School districts may fulfill the mandatory requirement of this act by: 1. joining in a cooperative program with another district or districts to provide special education; or 2. transferring certified handicapped or exceptional children into other school districts providing appropriate special education with the districts of residence paying tuition. (*Sec. 13-1 OS*)

Two or more school districts may establish cooperative programs for exceptional children if such an arrangement is approved by the state board.

County superintendents of schools may establish and maintain special education programs, with the approval of the state board, and may expend county funds for this purpose. Any school district or districts located wholly or in part of the county may participate in the program and have the authority to contribute school district funds either directly or by reimbursement to the county participating in such a program. (*Sec. 13-1 OS*)

SERVICES

The state board has the authority to select school districts within the state to establish special programs for the partially sighted for the first through ninth grades. The selection of the districts, establishment of the programs, and determination of their eligibility will be in accordance with special education regulations and laws. State funds specifically appropriated for this program will be apportioned by the state board among the school districts providing programs. The apportionment and distribution will be on a per student basis and in accordance with state board rules and regulations. (*Enrolled House Bill 1070, 1972.*)

PRIVATE

Districts may contract with private schools in their districts to provide special education services for deaf or hard of hearing children. Districts receive no state aid for these programs. (*Sec. 13-1 OS*)

The state board may provide for deaf-blind children in any public or private institution within or without the state. Reimbursement may not exceed $5,000 yearly per child for this program. (*Sec. 13-4 OS*)

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

OREGON

RIGHT TO AN EDUCATION

Constitution: "The legislative assembly shall provide by law for the establishment of a uniform and general system of common schools." (*Art. VIII, Sec. 3, Ore. Const.*)

Compulsory Attendance Law: The attending supervisor may require a written certificate of a duly licensed physician certifying that the child is physically or mentally unable to attend school if the child is to be exempt from the compulsory attendance requirements. (*ORS 339.030[A]*)

School districts do not have to keep the handicapped child in regular instruction if he cannot sufficiently profit from the work of the regular classroom. Districts also do not have to keep the handicapped child in a special class or instruction if it is determined the child can no longer receive benefits there or if he needs more specialized opportunity available elsewhere in the state. (*ORS 343.075 [2]*)

Any child over age 10, found to be mentally unable to benefit further from special education instruction, may be excluded permanently by the school board. (*ORS 336.090*)

Responsibilities: Any school district having 12 or more mentally retarded children, who are eligible for special services for the mentally retarded, shall establish such services. (*ORS 343.441*)

With the approval of the superintendent any school board of any district with children under 21 years of age requiring special education shall provide special education for these children as part of the district's education program, or if the board considers a contract to be economically feasible, may, in the interest of the many opportunities available to children, contract for the instruction of these children in another district maintaining an appropriate program. The contract price of such instruction must equal the cost of special education. They may also use the clinical services of public agencies providing psychiatric services for children. (*ORS 343.221*)

Any school district having twelve or more emotionally handicapped children residing within the district eligible for a special program may apply for a program for such children and the district will be allocated funds under Section 14. Any intermediate district or any combination of districts may operate a special program. (*ORS 343.509*)

POPULATION

Definitions: " 'Handicapped children' includes all children under 21 years of age who require a special education in order to obtain the education of which they are capable, because they are blind, partially sighted, deaf, hard of hearing, speech defective, crippled or physically handicapped, have extreme learning problems, are handicapped by being unwed or pregnant or by being unwed mothers with children in their care, or emotionally maladjusted to the extent that they cannot make satisfactory progress in the regular school program."

" 'Neurologically handicapped children' means children under the age of 21 who have a serious behavioral disorder to the degree that the child is unable to participate in a regular education program.

" 'Emotionally handicapped children' includes autistic, psychotic, neurologically-emotionally impaired, hyperactive, withdrawn and the child schizophrenic." (*ORS 343.505*)

" 'Crippled or physically handicapped' means a disability which has been diagnosed as permanent or which is extended over a two month period." (*ORS 343.212*)

" 'Trainable mentally retarded' means a mentally retarded person who is incapable of meaningful achievement in traditional academic subjects but who is capable of profiting to a meaningful degree from instruction in self-care, social skills and simple job and vocational skills, but does not include mentally retarded children as defined in ORS 343.410." (*ORS 430.760*)

" 'Mentally retarded children' means children between the ages of 6 and 21 who, because of well established retarded intellectual development are incapable of receiving a common school education through regular classroom instruction but whose intellectual ability would indicate a possible scholastic attainment of third-grade level with the benefit of special instructional methods and are competent in all aspects of the school environment except the academic." (*ORS 343.410*)

Age of Eligibility: Special education services may be provided to educable mentally retarded children from age six to 21. (*ORS 343.410*)

All other handicapped children are eligible for services from birth to age 21. (*ORS 343.212*)

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: In order to be eligible for special education a handicapped child must be certified for such services by the superintendent of public instruction or by an approved school district program. Certification requires determination made on the advice of qualified educational and medical authorities that the child has the mental health and ability to benefit from special education and must include a medical examination. The school district may waiver a medical examination of children eligible for special education because of speech defects or extreme learning problems or a medical or visual examination may be required of the children who have received special education but have not made satisfactory progress. Mentally retarded children enrolled in a special instructional facility are eligible in their participation in the special education program is authorized by the superintendent. Examinations must be given by a licensed physician in the case of a medical exam and by an opthalmologist or optometrist licensed by the state of Oregon in the case of a visual examination. (*ORS 343.227*)

Administrative officers of school districts have control over placing their children under their jurisdiction who are found eligible to participate in special education programs. If the child has been certified as eligible for special education or placement in a special instructional facility the parent or guardian must enroll the child in the program in which he is eligible. No school district or county or regional special education program is required to continue to maintain a child in a special program if it is determined that the child can no longer benefit from the program or needs a different or more specialized program available elsewhere in the state. (*ORS 343.075*)

To be eligible for placement in a special instructional facility an emotionally handicapped child must be certified by the superintendent as eligible for these services. Certification requires a determination made on the advice of qualified educational or medical authorities that the child has the ability to profit from placement. (*ORS 343.515*)

Regulations of the mental health division of the Oregon state board of control determine the eligibility of trainable mentally retarded children. (*ORS 430.710*)

ADMINISTRATIVE RESPONSIBILITY

The superintendent is responsible for establishing criteria to guide the development and operation of special programs and may apply these criteria in certifying the programs for reimbursement. (*ORS 343.045*)

The superintendent will administer all programs of special education subject to the approval of the state board. He will be responsible for establishing rules relative to the qualification of teachers, supervisors, work experience coordinators, courses of study, methods of instruction, admission diagnosis, and eligibility of pupils, size of special facilities, rooms, and equipment, supervision, territory to be served, and any other necessary rules. He may also use any funds appropriated for the program for pre-service and in-service education of teachers. (*ORS 343.055*)

The superintendent is responsible for employing personnel qualified by training and experience to supervise the types of services required by the special programs. Such personnel will assist school districts, county and regional facilities and hospitals in the organization and development of special programs and will have the general supervision of the programs to assist school districts in obtaining required services, equipment and materials, particularly where the number of children is too small to justify district purchase of equipment and materials. (*ORS 343.065*)

The age range and number of children placed in special programs for the emotionally handicapped will be in accordance with the rules and regulations and guidelines of the superintendent for teacher preparation and operation of special programs for emotionally handicapped children. (*ORS 343.509 [3]*)

The schools for the deaf and blind are under the supervision of the superintendent of public instruction. (*ORS 346.020*)

The mental health division of the Oregon state board of control supervises the program for the trainable mentally retarded. (*ORS 430.810*)

The mental health division in supervising the programs for the trainable is responsible for: 1) determining eligibility for participation; 2) qualifications for contracts, and 3) approving costs, including expenses for staff, equipment and supplies, transportation of children, and any other necessary costs. All determinations of the division are final and are not subject to any administrative or judicial appeal. (*ORS 430.820*)

PLANNING

Every school district, combination of districts or intermediate education district operating a special program for emotionally handicapped children must appoint a local advisory council consisting of at least five but not more than seven members including two parents of emotionally handicapped children. The other members shall be educators and professional persons associated with the diagnosis and treatment of emotional problems. The advisory council shall select its own chairman and vice chairman and fix the duties of its officers. Local advisory councils will review all aspects of the special program and report to the local board(s) or to the intermediate education district. The local councils will also recommend to the superintendent appointments for the state advisory council for emotionally handicapped children. (*ORS 343.525*)

A state advisory council for emotionally handicapped children with nine members appointed by the state superintendent is established. The members must include one member or representative of the state board, three parents of emotionally handicapped children, and educators and professional persons associated with the diagnosis and treatment of emotional problems. All members except the members of the state board must be members of local advisory councils and representative of all geograhic areas in the state. The superintendent shall consider recommendations of the local council when making appointments. The state council will review all aspects of the statewide program for educating emotionally handicapped children and advise the superintendent and the state board on these programs. (*ORS 343.530*)

FINANCE

Districts will be reimbursed for the operation and administration of special education programs in the following manner:

1. A district must submit to the superintendent an estimate of the cost for providing special education for the following school year.
2. A district which provides special education or expends more than the regular per capita cost on home or hospital instruction of crippled or physically handicapped children must file with the superintendent by October 1 following the close of the school year for which the reimbursement is claimed, and any other information required by the superintendent for reimbursement.
3. If the superintendent approves the application of the district for reimbursement, he will then reimburse the district in an amount not exceeding one and one-half (1-1/2) times the per capita cost of instruction for other children of the district except in the case of home or hospital instruction, reimbursement will be made only for the costs which are in excess of the per capita cost of the district.

If available funds will not permit maximum reimbursement, all districts claiming over $500 will receive a prorated reimbursement based upon the ratio that the total amount of funds available bears to the total amount of funds required for maximum reimbursement. (*ORS 343.281*)

Funds appropriated for special education will be used to reimburse districts for special education programs, reimburse the state board of education and purchase special equipment and supplies to loan to school districts and county and regional programs—such equipment and supplies may be only those required by children needing special education to train teachers in special education—and to pay any other expenses necessary for the proper administration and operation of special education programs. If federal funds are made available on a matching basis for special education, state funds may be used to match federal funds. (*ORS 343.285*)

Children enrolled in a program for the trainable mentally retarded are considered as enrolled in the schools of the district for financial aid. Districts participating in these programs or providing them through private contract will be reimbursed by the mental health division for approved costs minus the district's per capita operating cost multiplied by the number of children participating in the classes. (*ORS 430.780*)

Any district or combination of districts operating an approved program for emotionally disturbed children must file by October 1 following the close of the school year for which reimbursement is claimed—a verified claim with the superintendent. The claim must include the names of all children enrolled in the program during the school year for which the reimbursement is claimed. (*ORS 343.535*)

Reimbursements to districts for operating and administering special instructional facilities approved by the superintendent will be made subject in the following manner:

1. A district must submit to the superintendent an estimate of the costs for the following school year,
2. A district providing special instructional facilities shall file with the superintendent by October 1 following the close of the school year for which reimbursement is claimed a notarized claim and any other information required by the superintendent for reimbursement for which the district is eligible for the cost of operation of the special instructional facilities.
3. If the superintendent approves the application of the district for reimbursement, he will then reimburse the district in the amount of the total cost approved by the superintendent if the cost of the program exceeds the per capita cost of instruction of other children in the district. The superintendent will determine the eligibility of programs for reimbursement. Only programs that meet the standards for such programs and for which funds will be appropriated or otherwise available shall be approved. (*ORS 343.510*)

Funds appropriated for special programs for the emotionally handicapped may be used to:

1. reimburse districts for authorized programs;
2. pay any other expenses necessary to administer and operate special programs; and
3. administer federal funds when they are available on a matching basis for such a program. (*ORS 343.545*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Any district enrolling a child in a district other than that in which he would be regularly enrolled to obtain special education shall continue to the district in which he is enrolled a sum equal to the cost of educating a child in the district in which he is enrolled. Any school district providing special education to children in the district through a county or regional program of special education in the form of a special class or school shall contribute a sum not less than the elementary or secondary per capita cost of educating the children had they been enrolled in the district. (*ORS 343.277*)

They may also cooperate with public agencies providing psychiatric services for children to establish clinical elementary and high school services for children who are maladjusted or have extreme learning difficulties.

If it is more economical to the school districts providing the classes, either singly or jointly on a contractual basis between school districts, the superintendent of public instruction may provide for regional facilities to instruct handicapped children. He will delegate full responsibility for the operation and administration of these facilities to the school district in which the facility is located. In this case the district will be reimbursed from the funds provided for the education of handicapped children for expenses incurred in the operation and administration of the center. He does not have to delegate the responsibility to the school district but may operate the facility and be responsible for the administration itself. (*ORS 343.236*)

SERVICES

"(a) 'Special instruction facilities' means a full-time school program for eligible mentally retarded children, often in special classes in public schools, and often supervisory personnel employed by the school district or county school superintendents subject to the approval of superintendent of public instruction, to direct the program of a special instructional facility, or a full-time school program for eligible mentally retarded children which adequately provides for their education and which has been approved by the superintendent of public instruction;" or "(b) a full-time school program for eligible mentally retarded children which adequately provides for their education and which has been approved by this superintendent of public instruction." (*ORS 343.410*)

" 'Special instructional facility' means the full-time program for eligible mentally retarded children, special classes in special schools, and includes supervisory personnel employed by the school district or county school superintendent, subject to the approval of the superintendent of public instruction to direct the program of special instruction." (*ORS 343.410*)

" 'Special education' includes special instruction for handicapped children in or addition to, regular classes, special classes, special schools, special services, home instruction and hospital instructions."

" 'Special services' includes transportation, rate or service, special equipment, psychometric testing and such other materials and services as are approved by the superintendent of public instruction." (*ORS 343.212*)

Programs for the trainable can be maintained in the following manner:

1. Contracts with school districts or intermediate education districts to provide classes for the trainable, if the school districts or intermediate education districts approve the contract, or if any school district within the intermediate education contracts with the intermediate education district, 2. Contracts with private agencies to provide classes; 3. Contracts with public or private agencies to provide diagnostic and evaluation services necessary for the trainable, and 4. Counseling services to parents or guardians of mentally retarded persons, or contracts with public or private agencies or persons who provide such services. (*ORS 430.770 to 430.790*)

Deaf students attending a university, college, or other suitable school are eligible for a state grant to help defray expenses. The applications for the grants must be approved by the Oregon state board of control and may not exceed $500 in any one year. (*ORS 346.070*)

Blind students attending universities, colleges, or other suitable schools are eligible to apply to the commission for the blind for state aid providing readers and other expenses. A committee consisting of the superintendent of public instruction, the superintendent of the state school for the blind, and a representative of the commission for the blind will make the recommendation. Grants may not exceed $500 a year. (*ORS 346.060*)

" 'Special program' means a full-time school program in the public schools for eligible, emotionally handicapped children which adequately provides for their education and which has been approved by the superintendent of public instruction." (*ORS 343.505 [2]*)

The superintendent in cooperation with hospital authorities shall establish classes and appoint teachers for children under 21 in the state tuberculosis hospital, the state hospitals for the mentally ill, the University of Oregon Medical Schools Hospital, Shriner's Hospital for Crippled Children, and Crippled Children's Hospital School in Eugene. He shall further assume the responsibility for observing and supervising the instruction, providing instructional supplies and paying teachers' salaries from state special educational funds. This responsibility may be delegated to the school district in which the hospital or institution is located or to an adjacent school district. If the school district assumes the responsibility it will be reimbursed from state funds. (*ORS 343.261*)

PRIVATE

Special funds appropriated to the state board may be used by them to contract with and pay an educational institution within or without the state to educate educable children who are deaf, mute and blind. Funds such as these may also be used to purchase and prepare equipment and supplies to be loaned to school districts and county or regional programs which provide programs for the education of blind or partially seeing children in the public schools. (*ORS 343.301*)

See Services.

PERSONNEL

Scholarships may be awarded to qualified teachers wishing to obtain certification to teach the mentally retarded or emotionally handicapped. Each recipient will receive $200 for living expenses and an amount for tuition fixed by the state board of higher education. In order for an applicant to receive a scholarship, the following conditions must be met:

1. The school board in the district where the teacher is employed or is to be employed for the succeeding school year agrees to pay the teacher $200 to match the $200 paid by the state as part of the scholarship;
2. The teacher applying for the scholarship agrees in writing to complete the course and to teach in the school district that provides the matching funds for one year after receiving his teaching certificate to teach mentally retarded or emotionally handicapped children.

Scholarships are renewed in the same manner as they are originally awarded. If a teacher fails to complete the course or to teach in the public schools in the state after receipt of the award, he must remit to the state the funds received. If he teaches in a district other than the one which granted him the matching funds, he must reimburse the district, but not the state. (*ORS 343.552 to 343.558*)

The superintendent in cooperation with the state board of higher education may establish in state institutions of higher learning approved by the state board for the preparation of teachers, centers to assist in the preparation of special education teachers and to provide evaluative, consultative, and instructional services for physically and emotionally handicapped children. Funds appropriated for the education of physically and emotionally handicapped children may be used to help defray such costs. (*ORS 343.271*)

Funds appropriated by the state board may be used to provide and pay for special training of teachers of blind or partially seeing children in the public schools. (*ORS 343.301*)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

PENNSYLVANIA

RIGHT TO AN EDUCATION

Constitution: "The general assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth." (*Art. 3, Sec. 14, Pa. Const.*)

Compulsory Attendance Law: All children between the ages of eight and 17 are required to attend a day school teaching the subjects and activities described by state board standards in English. A parent, guardian, or other person having control of any child of compulsory school age who is deaf, hearing impaired, blind or visually impaired, or crippled and because of his handicap cannot be educated in the public schools of his district of residence, shall allow the child to be sent to a school with proper provisions for the education of such handicapped children or shall provide for the child's education by a legally certified private tutor. (*Sec. 1327 and 1328 Pa. School Code*)

The board of school directors of any district may, with evidence of any licensed practitioner of the healing arts or any other satisfactory evidence showing that any child has been prevented from attending school or from application of study because of any mental or physical handicaps excuse the child from attending school. No action of the board of school directors is final until approval is given by the department of public instruction. (*Sec. 1329 Pa. School Code*)

The provisions of this act do not apply to a child who has been examined by an approved mental clinic or by a person certificated as a public school psychologist or psychological examiner and has been found unable to profit further from public school attendance and who has been reported to the board of school directors and excused in accordance with the state board regulations. (*Sec. 1330 Pa. School Code*)

Responsibilities: "Except as herein otherwise provided, it shall be the duty of the board of school directors of every school district to provide and maintain or to jointly provide and maintain with neighboring districts special classes or schools in accordance with the approved plan." (*Sec. 1372, Pa. School Code*) See Planning.

If an approved plan demonstrates that it is unfeasible to form a special class in any district or to provide for a child in any of the public schools of the district, the board of school directors in the district will secure proper education and training outside the public schools, in a special institution, or provide for teaching the child in his home. (*Sec. 1372 Pa. School Code*)

POPULATION

Definitions: "The term 'Exceptional Children' shall mean children of school age who deviate from the average in physical, mental, emotional, or special characteristics to such an extent that they require special education facilities or services and shall include all children in detention homes." (*Sec. 1371 Pa. School Code*)

Age of Eligibility: Children are eligible for special education beginning at the age of five years and seven months prior to September 1. The board of school directors may admit beginners less than five years and seven months old. Boards of school directors may refuse to accept or retain children who have not yet maintained a mental age of five years. (*Sec. 1304 Pennsylvania School Code*)

IDENTIFICATION AND PLACEMENT

Screening: Children of school age will have, according to the regulations of the advisory health board, a vision test by a school nurse, medical technician, or teacher; a hearing test by a school nurse or a medical technician; height and weight measurements by a school nurse or teacher; a test for tuberculosis under medical supervision; and any other tests the advisory health board feels are important to protection of the health of the child. The vision test must be given at least annually and the other tests at any intervals established by the advisory health board. (*Sec. 1402 Pa. School Code*)

Special Education Evaluation: District superintendents are responsible for reporting to the proper intermediate unit by October 15 of each year and thereafter as cases of exceptional children arise within their districts.

Any children so reported will be examined by a person certified by the department of public instruction as a public school psychologist and any other experts required by the child's handicap and condition. Reports shall be made to the proper intermediate unit of all exceptional children and of district children enrolled in special classes. (*Sec. 1371 Pa. School Code*)

The state board shall establish standards for a temporary or permanent exclusion from the public schools of children found to be both uneducable and untrainable. Any child determined to be uneducable and untrainable by a person certificated as a public school psychologist may be reported by the board of school directors to the superintendent of public instruction. If approved by him, the child will be certified to the department of public welfare as an uneducable and untrainable child. If the child is thus certified, the public schools are relieved of the obligation of providing education or training to the child. The department of public welfare may then arrange for the care, training, and supervision of the child in a manner "not inconsistent with the laws governing mentally defective individuals." (*Sec. 1375 Pa. School Code*)

The county medical director of the department of health reports to the medical examiner of any school district the case of a deaf or hearing impaired child under six years of age who is not receiving adequate care and treatment which his parents or guardian is financially unable to provide. The examiner will provide for the care and treatment of the child at the expense of the school district or the state as the case may be. Care and treatment may be administered by the medical examiner or by some doctor of medicine chosen by him. (*Sec. 1378 Pa. School Code*)

When notified by the department of health of a case of a deaf or hearing impaired child under six years of age, the superintendent of public instruction may, if it seems desirable, notify the parent or guardian of the location of any special schools and the nearest public school having special classes for the hard of hearing including information concerning the advantages offered to the child by the school or classes and the manner by which expenses will be provided. (*Sec. 1379 Pa. School Code*)

ADMINISTRATIVE RESPONSIBILITY

The organization of special classes and any other arrangements for special education are under the direction of the superintendent of public instruction. (*Sec. 1372 Pa. School Code*)

The state board of education is responsible for adopting and prescribing standards and regulations for educating and training exceptional children either singly or jointly by school districts or intermediate units. The department of public instruction is responsible for determining what intermediate units will be joined to provide education and training for exceptional children. Standards and regulations will recognize factors such as numbers of exceptional children, types of handicaps, facilities, transportation, adequacy of existing provisions for exceptional children, and availability of school plant facilities. (*Sec. 1372 Pa. School Codes*)

The department of public instruction has jurisdiction over organizing and supervising schools and classes according to the rules and regulations of the conduct of schools and classes of the public school systems in any institution wholly or partly supported by the state and not supervised by public school authorities. Schools and classes in institutions completely supported by the state will be financed by the department having jurisdiction and control of the institution. Teachers of a school or of a class organized and supervised by the department of public instruction in an institution wholly or partly state supported, teachers in the Pennsylvania State Oral School for the Deaf, teachers in the Thaddeus Stevens Trade School, and teachers in the Scotland School for Children enjoy the same privileges, including tenure rights. and are subject to the same laws as teachers in the public schools. (*Sec. 1926 Pa. School Code*)

PLANNING

Intermediate units, either cooperatively with others and with school districts, shall prepare and submit to the superintendent of public instruction by August 1, 1970, for his approval or disapproval, plans for the proper education and training of all exceptional children. These plans are subject to revision, when conditions warrant, with the approval of the superintendent of public instruction. (*Sec. 1372 Pa. School Code*)

FINANCE

Districts maintaining special classes in the public schools or special public schools or providing special education services in any other manner shall receive state reimbursement as long as the class, schools, or special education services are approved by the department of public instruction regarding the location, constitution, and size of classes; conditions of admission and discharge of pupils; equipment, courses of study, method of instruction, and qualification of teachers. By November 1 of each year, the secretary of the board of school directors in each district providing special education must make any reports required by the department of public instruction regarding special education programs for the current school year. (*Sec. 1373 Pa. School Code*)

"Beginning with the school term of 1954-55 and for every school term thereafter, every school district, regardless of classification, shall be paid by the Commonwealth an amount determined by multiplying the average daily membership (ADM) and costs for exceptional children, (1) at the elementary level by an amount determined by subtracting the 'instruction cost per elementary pupil,' as defined in Sec. 2561 of this act, from the 'instruction cost per special class pupil,' as hereinafter defined for the preceding school term or from the 'instruction cost per special class elementary pupil as approved for reimbursement by the department of public instruction and the budget for classes or schools for exceptional children for the school year in which the classes operated, whichever is the lesser, (2) at the secondary level by the amount determined by subtracting the 'instruction cost per high school pupil,' as defined in Sec. 2561 of this act, from the 'instruction cost per special class pupil,' as hereinafter defined, for the preceding school term, or from the 'instruction costs per special class secondary pupil' as approved for reimbursement by the department of public instruction and the budget for classes or schools for exceptional children for the school year in which the classes operated, whichever is the lesser.

"To find the 'instruction cost per special class pupil' add (1) salaries of directors and supervisors of special education, public school psychologists, counselors, principals of special schools and assistants, teachers of special classes for exceptional children, clerks and assistants employed in the district's program for special education, (2) district's contribution to the retirement fund of the directors and supervisors of special education, public school psychologists, principals of special schools and assistants, teachers of special classes for exceptional children, clerks and assistants employed in the district's program for special education, (3) the cost of text books and supplies of the second class used in the district's special education classes or schools, (4) the cost of a telephonic system which enables handicapped children to remain in their homes and still participate in classroom activities. Divide the (1), (2), (3) and (4) or that part thereof which is approved by the department of public instruction for reimbursement by the total number of pupils, including those pupils who have available for use telephonic system equipment whereby they may remain at home and still participate in classroom activities, and ADM in the district's approved special classes for exceptional children. The quotient thus obtained shall be the 'instruction cost per special class pupil.' "

The ADM of speech correction classes is calculated by multiplying the average number of pupils in speech correction classes per week by the number of periods per week speech correction is provided for individual pupils by the number of minutes per period in the speech correction class. The product is divided by the total number of minutes spent in all classes weekly by the average pupil. The quotient obtained is the ADM of pupils in speech correction classes. (*Sec. 2509 Pa. School Code*)

All districts providing education for homebound children receive from the state an amount determined by multiplying the mandated minimum hourly rate for instructing homebound children by the district aid ratio. (*Sec. 2501.1 Pa. School Code*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Intermediate units shall provide, maintain, administer, supervise, and operate any additional classes or schools necessary or otherwise provide for the proper education and training of all exceptional children not enrolled in classes or schools maintained and operated by school districts or for whom other provisions are not made. (*Sec. 1372 Pa. School Code*)

If the superintendent of public instruction feels that the provisions of this act have not been complied with or the needs of exceptional children are not being adequately served, the department of public instruction is authorized to supervise and operate classes in schools for the education and training of exceptional children.

Eligibility for enrollment is determined by standards of the state board. For all children enrolled in a special class or school operated by the department of public instruction, the school district of residence will pay the state a sum equal to the tuition charge per elementary pupil or the tuition charge per high school pupil, as determined for the schools operated by the district or by a joint board of which the district is a member based upon the cost of the preceding school term plus a sum equal to 10 percent of the tuition charges. If a district has not established a tuition rate, the superintendent of public instruction will fix the rate. To facilitate payment, the superintendent of public instruction will withhold from any monies due the district out of the state appropriation the amounts owed by the school district to the state. All withheld amounts are specifically appropriated to the department of public instruction to maintain and administer centers and classes for exceptional children. (*Sec. 1372 Pa. School Code*)

The ADM of pupils enrolled in classes or schools for exceptional children operated by an intermediate unit or by the department of public instruction are credited to the school district of residence for determining the district's teaching units used in calculating the district's reimbursement fractions or weighted ADM used in calculating the district's aid ratio and determining payments to the district on account of instruction. (*Sec. 1372 Pa. School Code*)

All school districts in the state are assigned to an intermediate unit and are entitled to receive services provided by these units. (*Sec. 901-A Pa. School Code*)

Two or more intermediate units may, with the approval of a majority of each intermediate unit board of directors and all school districts within each intermediate unit, submit to the state board of education a request for consolidation. If it is approved by the state board, it becomes effective the following July 1. (*Sec. 904-A Pa. School Code*)

Intermediate units annually submit a program of services for the next school year to the superintendent of public instruction for budgetary approval. (*Sec. 905-A Pa. School Code*)

All powers and duties formerly held by county boards of education regarding special pupil services are now vested in intermediate unit boards of directors. (*Sec. 908-A Pa. School Code*)

Intermediate units are limited to providing curriculum development and instructional improvement services, educational planning services, instructional material services, continuing professional education services, pupil personnel services, state and federal agency liaison services, and management services. Any additional services must be approved by the majority of all boards of school directors comprising the intermediate unit. Intermediate units may provide any of the services mentioned in this section to non-public, non-profit schools which are authorized to contract for and purchase services from intermediate units. (*Sec. 914-A Pa. School Code*)

If the state funds allocated to the unit are less than budgetary requirements, all school districts within the intermediate unit will contribute a share of the amount by which the budget exceeds the allocation. The school district contribution will be determined by:

1. Determining a weight factor for each school district by multiplying the school district's weighted ADM by the difference between 1.0000 and the school district's aid ratio;
2. Determining a value per weight factor for the intermediate unit by dividing the amount by which the budget exceeds the allocation by the total weight factor of all school districts comprising the unit; and
3. Determining each school district's share by multiplying the value per weight factor by the weight factor of the school district. (*Sec. 920-A Pa. School Code*)

By July 1 of each year intermediate units shall submit for prior review and approval estimates of the cost of operating and administering classes or schools for exceptional institutionalized children, including the cost of fical control such as auditing and necessary treasurers' and secretaries' bonds operated by the intermediate unit and transportation of children to and from classes and schools for exceptional children whether or not they are conducted by the intermediate unit. By August 1 the state will pay to the intermediate unit a sum equal to one-half of the approved estimated annual cost of operation and administration of classes for exceptional and institutionalized children and transportation and on or before January 1 they will pay an equal sum or lesser sum as may be shown to be necessary by an adjusted budget. At the end of each school year all unexpended funds will be credited to the state. All returned funds are specifically appropriated to the department of public instruction for the support of schools and classes and transportation for exceptional children. For children enrolled in any special class or school for exceptional children operated by an intermediate unit, the district in which the child is a resident will pay to the state the sum equal to the "tuition charge per elementary pupil" or the "tuition charge per high school pupil." In addition, districts will pay for transportation of children by the intermediate unit an amount determined by subtracting from the cost of transportation the per pupil reimbursement due the district for transportation. The superintendent of public instruction shall withhold any monies due the district out of state appropriations except for rental reimbursement. (*Sec. 2059.1 Pa. School Code*)

SERVICES

The department of public instruction will prescribe regulations for the provision of homebound instruction which shall be provided to all children confined in detention homes regardless of whether or not they are exceptional. (*Sec. 1372 Pa. School Code*)

Districts will be reimbursed for the cost of readers, helpers, aids, guides, appliances, special school books, supplies and devices for children between the ages of six and 21 who are blind, partially sighted, hard of hearing, or afflicted with cerebral palsy, enrolled with the approval of the department of public instruction in any of the public schools of the state in an amount equal to the cost of these services and equipment multiplied by the district's aid ratio. The total expenditure by the state may not exceed 75 percent of the sum which would have been expended for the tuition and maintenance of the child in a residential school for the blind, partially sighted, deaf, hard of hearing, or those afflicted with cerebral palsy. Services of the readers, helpers, and guides may be contracted and paid for by school districts regardless of the age of the person giving the assistance and the employment of the person by the district as a teacher or otherwise and of the time and place where the services are rendered. (*Sec. 1373.1 Pa. School Code*)

Exceptional children enrolled in special classes approved by the department of public instruction or enrolled in a regular class with approved special education services may be furnished free transportation by the school district. If it is unfeasible to provide transportation, the board of school directors may, in lieu of transportation, pay for suitable board and lodging for a child. If transportation and board or lodging is not furnished for any exceptional child who, because of this, is unable to attend a class or center for which he is qualified, the intermediate unit will then provide the necessary transportation. (*Sec. 1374 Pa. School Code*)

The department of public instruction is responsible for educating blind children under the age of eight whenever the parents may be unable properly to educate them. The department of public instruction, with the written consent of the parents or nearest relative if there are no parents, or the local authorities of the proper institution if there are no parents or relatives, may contract with any non-sectarian institution established for the education of the blind where any child, at a cost not exceeding $3.00 per day paid by the state, may be educated until he reaches the age of eight. This education may be continued beyond the age of eight if for physical, mental, or other proper reasons the child is in need of special care for a longer period. The contract may be canceled or the child removed at any time by the department of public instruction. (*Sec. 1380 Pa. School Code*)

Up to $500 yearly may be provided to blind or deaf students enrolled in any university, college, conservatory of music, normal, professional, or vocational school approved by the department of public instruction. (*Sec. 1381 Pa. School Code*)

PRIVATE

If children between the ages of six and 21 who are blind or deaf or afflicted with cerebral palsy, and/or brain damage, and/or muscular dystrophy are enrolled with department of public instruction approval in any appropriate school or institution under the supervision of or subject to the review and approval of the department of public instruction, the district of residence of the child will pay 25 percent of the cost of tuition and maintenance in the school or institution. The state will pay out of special education funds 75 percent of the cost. If the residence of a child in a particular school district cannot be determined, the state will pay the total cost of tuition and maintenance. In no event shall the cost of tuition and maintenance of any child exceed $4,200 per year. (*Sec. 1376 Pa. School Code*)

If a child less than six years of age or more than 21 is blind or deaf or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy is enrolled with department of public instruction approval as a pupil in any of the schools or institutions for such children approved by the department or under their supervision, the state will pay the school or institution the cost of tuition and maintenance for the child, subject to the approval by the standards and regulations of the council of basic education, up to $4,200 per year. For the parents of blind children under the age of six, the cost of instructing the parent in the caring of the child is also included. (*Sec. 1376 Pa. School Code*)

If a socially or emotionally disturbed child between the ages of six and 21 is enrolled in a school with the approval of the department of public instruction, the school district of residence will pay 25 percent of the cost of tuition and the state will pay 75 percent of the cost of tuition up to $2,310 yearly. (*Sec. 1376 Pa. School Code*)

The district's share of costs under these sections is withheld by the state superintendent for any state aid due to the district. The maximum amount payable for the cost of tuition and maintenance for all children is subject to review at least once every four years for the purpose of recommending any adjustments. To enable the department to determine from time to time the amounts due to the schools, the schools will forward to the department periodically statements setting forth the names, ages, and residences of all pupils enrolled specifying the school district liable for part of the per capita cost of and maintenance of the pupil and any other required information. (*Sec. 1377 Pa. School Code*)

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

RHODE ISLAND

RIGHT TO AN EDUCATION

Constitution: "The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the General Assembly to promote public schools and to adopt all means which they deem necessary and proper to secure to the people the advantages and opportunities of education." (*Art. 12, Sec. 1, R.I. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 must attend the public schools in the state unless the person having control of the child presents a certificate, made under the direction of the school committee of the city or town where he resides, showing the child's physical or mental condition was such as to render his attendance at school inexpedient or impracticable. (*Sec. 16-19-1 R.I. Acts*)

All parents or guardians of deaf children between the ages of seven and 18 must have the child attend the school for the deaf for the period of time or for prescribed courses in each individual case as deemed expedient. A $20 fine may be levied against anyone not fulfilling this provision, but if a person so charged proves to the satisfaction of the board that the child has received or is receiving private or other instruction a suitable education then the penalty will not be incurred. No child will be removed from his parents or guardians to a school except as a day student unless it is determined that the parent or guardian is an improper person to have custody. (*Sec. 16-26-8 R.I. Acts*)

Responsibilities: In any city or town in which there is a handicapped child, as defined by regulations of the state board of education, the school committee of the district must provide the special educational services that will best meet the needs of the child as recommended and approved by the state board of education. (*Sec. 16-24-1 R.I. Acts*)

POPULATION

Definitions: A handicapped child is defined as "a child within the age range as designated by the regulations of the state board of education, who is either mentally retarded or physically or emotionally handicapped to such an extent that normal educational growth and development is prevented." (*Sec. 16-24-1 R.I. Acts*)

In a separate program for the mentally retarded the children are defined as "all children between the ages of five and 21 who because of retarded intellectual development, as determined by individual psychological examination, are incapable of being educated profitably and efficiently through ordinary classroom instruction." (*Sec. 16-24-7 R.I. Acts*)

Age of Eligibility: Exceptional children may receive services between the ages of three and 21. (*Sec. 16-24-2 R.I. Acts*)

IDENTIFICATION AND PLACEMENT

Census: School committees of every city and town will annually ascertain under regulations prescribed by the state board, in cooperation with the directors of health and social welfare, the number of children within their district of school age who are physically, emotionally, or mentally handicapped. (*Sec. 16-24-3 R.I. Acts*)

Screening: All superintendents will have an examination of the sight and hearing of all children within their districts at least once a year by teachers or school physicians. The records of the examinations must be maintained and parents notified of any defects. This section also requires that examinations of legs and pedal extremities be made by physicians or school nurses to determine whether the children have infantile paralysis. (*Sec. 182 R.I. Acts*)

ADMINISTRATIVE RESPONSIBILITY

It is the responsibility of the state board of education to establish regulations including: (1) criteria to determine who is to be included in the category of exceptional children including all persons who are between the ages of three and 21 who are mentally retarded and/or multi-handicapped. The state board is required to consider all persons who are mentally retarded, not just the educable and trainable; (2) criteria for establishment and/or reimbursement of special facilities such as public school classes, hospital schools, etc., for each category of exceptionality; (3) methods of reimbursement; (4) teacher training recommendations and minimum teacher qualifications; (5) transportation and (6) any other regulations that may be necessary to implement the special education program. (*Sec. 16-24-2 R.I. Acts*)

The state board of education is responsible for supervision, administration, and control of the Rhode Island School for the Deaf. (*Sec. 16-26-2 R.I. Acts*)

An advisory council appointed by the governor will advise the board of education concerning the school for the deaf but has no administrative powers or duties. (*Sec. 16-26-3 R.I. Acts*)

The department of mental health has supervision and control of the state hospital for the mentally ill and Exeter School for the Mentally Retarded. (*Sec. 42-12-2 R.I. Acts*)

The Ladd School for the Mentally Retarded is under the supervision of the department of mental health. (*Sec. 23-43-11 R.I. Acts*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

"The state shall reimburse each city and town in the manner prescribed by the regulations of the state board of education." (*Sec. 16-24-6 R.I. Acts*)

In providing transportation, home teaching, and/or tuition for mentally retarded minors, cities or towns will be reimbursed by the state in an amount not exceeding one-half the cost if the programs have been approved by the state board. No costs incurred under this section will be considered in determining any other state aid to the city or town. (*Sec. 16-24-12 R.I. Acts*)

One million dollars is appropriated annually for educational programs for the handicapped on the basis of the ratio of handicapped children in each district to the state total of such children. The department has the power to require that programs be administered and supervised by local districts in the manner that the department deems to be the most feasible, both educationally and economically. (*Ch. 160, Sec. 5, Public Laws of 1967*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Regional school districts may be formed to provide a variety of educational services depending upon the agreement of the participating districts. Among the services that may be provided by such districts are: education for the handicapped, school health services, guidance services, general supervisory services for all schools in the area or in some specialized field such as vocational education and any other educational services pertinent to the needs of the regional district. (*Sec. 16-3-3 R.I. Acts*)

Whenever possible, two or more districts or towns may organize to provide educational services for those children needing special care and individual instruction. (*Sec. 16-24-5 R.I. Acts*)

The classes for the mentally retarded defined in sections 16-24-8 and 16-24-9 will be established in all state institutions or state schools for the mentally retarded subject to the regulations of the state board of education. (*Sec. 16-24-13 R.I. Acts*)

SERVICES

School committees of all cities and towns must provide for the transportation to and from school either within the school district or in another school district of the state for all handicapped children. (*Sec. 16-24-4 R.I. Acts*)

Special programs for the mentally retarded are established under the following conditions: In cities or towns where there are 10 or more retarded children who may be expected to profit from special education facilities designed to make them economically useful and socially adjusted, special classes must be established to provide instruction adapted to the mental attainments of children from their fifth birthday and when they have reached the mental age of three until the end of the term in which they become 21.

Also, all cities and towns in which there are 10 or more mentally retarded children who cannot profit from ordinary classroom instruction and who do not qualify under the above section but who may be expected to benefit from special education facilities designed to educate and train them to further their individual acceptance, social adjustment, and economic usefulness in their homes and within a sheltered environment, must establish the necessary classes to provide instruction adapted to the mental attainment of such children from their fifth birthday and upon attaining the mental age of two until the end of the term during which they become 21.

If a city or town contains less than eight of the mentally retarded minors described above, it may contract with another city or town for the provision of education of such children or may establish a special class, with the consent of the board of education. If the city or town does not establish a class for less than eight mentally retarded children or contract with another city or town, then the city or town will contract with a suitable day school for instruction adapted to the mental attainments of these children, provided that the day schools are subject to the regulations and supervision of the state board. (*Sec. 16-24-8, 16-24-9, and 16-24-10 R.I. Acts*)

Transportation will be provided to all mentally retarded pupils attending special classes or special day schools. Also, for the purposes of furnishing transportation and of providing incidental expenses for the education of mentally retarded children until age 18, a center approved by the assistant director of health and mental retardation will be decreed to be a school for this chapter. (*Sec. 16-24-11 and 16-24-16 R.I. Acts*)

Services for emotionally disturbed children are provided by the department of mental health, retardation, and hospitals. (*Sec. 40.1-7-2 R.I. Acts*)

This department is charged with the responsibility of promoting specialized services for the care and treatment of emotionally disturbed children, cooperating with public and private agencies, and taking initiative in all areas involving the interest of these children where adequate legal provisions had not yet been made. (*Sec. 40.1-7-3 R.I. Acts*)

In this section, care and treatment means "medical and psychiatric care is received, medical attention, and nursing and medications as well as food, clothing, and maintenance, psychological and social work and recreational services and those educational services furnished to a child other than those regular or special education programs under the jurisdiction of the board of regents for education."

Emotionally disturbed child means, "any person under the age of 21 years, and who has been diagnosed and judged by the examining physician to be in need of psychiatric care and treatment." (*Sec. 40-7-4 R.I. Acts*)

Under the direction of the state director of mental health, retardation, and hospitals, the department has the responsibility for developing public policy and programs related to the needs of emotionally disturbed children. In order to fulfill this responsibility among other things, they should: 1) plan and diversify a comprehensive network of programs and services to meet needs of the emotionally disturbed children, including, but not limited to, preventive case finding, diagnostic treatment, and rehabilitative or after care services; 2) providing the overall management and supervision of state programs for such children; 3) promoting the development of programs for preventing and controlling emotional and behavioral disorders in children; 4) coordinating the efforts of several state departments and agencies that care for the treatment of such children and cooperating with private agencies who are also serving these children; 5) promoting the development of new resources for program implementation for emotionally disturbed children, and 6) providing research and analysis for evaluation and services. (*Sec. 40.1-7-4 R.I. Acts*)

Each community shall contribute to the department, in accordance with regulations promulgated by the director, the average per pupil cost for education as its share of costs for the educational services furnished to emotionally disturbed children, in programs other than those regular classes of special education programs under the jurisdiction of the board of regents for education. (*Sec. 40-7-7 R.I. Acts*)

Parents of children in the program, depending upon their resources, will be obligated to participate in the cost of the care and treatment of their children in accordance with regulations promulgated by the director. (*Sec. 1-7-8 R.I. Acts*)

The governor, upon the recommendation of the department of education and upon the application by the parent or guardian, may appoint "any deaf, blind, imbecile, or emotionally handicapped child, who is a fit subject for education as a state beneficiary at any suitable institution or school now established or may be established within or without the state for a period not exceeding 10 years. He may extend the time limit upon the recommendation of the department of education and may revoke the appointment at any time for cause. (*Sec. 16-25-1 R.I. Acts*)

The department of education may provide suitable care, maintenance, and instruction for babies and children under school age who are blind in any case where the parent or parents of such child may be unable to properly care for or maintain the child. (*Sec. 16-25-4 R.I. Acts*)

The department in providing the services may contract with any institution in or out of the state. The contract must be made with the written consent of the parents or surviving parent of any child. (*Sec. 16-25-5 R.I. Acts*)

The department of education may provide readers for blind students attending any institution of higher education. The General Assembly shall annually appropriate the necessary sums to carry out this program. (*Sec. 16-25-7 R.I. Acts*)

PRIVATE

Private schools may apply for approval of their program in the same manner as public schools. (*Sec. 16-24-2 R.I. Acts*) See Services.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

SOUTH CAROLINA

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall provide for a liberal system of free public schools for all children between the ages of six and twenty-one years . . . ." (*Art. XI, Sec. 5, S.C. Const.*)

Compulsory Attendance Law: A child between ages seven and 16 is exempted from the compulsory attendance requirement if he:

1. obtains a certificate from a psychologist who is certified by the state department of education or from a licensed physician stating that he is unable to attend school because of a physical or mental disability, and there are no suitable or special classes available for the child in his district of residence, or
2. was 10 years of age or older and had been out of school for three years or more when the law was enacted; again, providing there were no special classes in the school district for him to attend. (*Sec. 21-757.2 S.C. Stats.*)

Policy: The General Assembly finds it necessary and proper to provide an appropriate education for all handicapped children and youth in the public schools who are eligible for enrollment. (*Sec. 1, Act 977, 1972*)

Responsibilities: School districts may operate special education programs for eligible children under the rules and regulations of the state board of education. (*Sec. 21-292.6 S.C. Stats.*)

The General Assembly finds that appropriate education can be best accomplished for handicapped children through implementation of an intensive five-year plan to expand and improve existing programs. The purpose of this act is to provide for the mandatory establishment of educational and training services and facilities for handicapped children in the public schools between the ages designated in Section 21-752 of the 1962 Code who cannot be adequately trained without special educational facilities and services. (*Sec. 1, Act 977, 1972*)

POPULATION

Definitions: " 'Handicapped children' shall mean those who deviate from the normal either psychologically or physiologically to such an extent that special classes, special facilities or special services are needed for their maximum development, including educable mentally handicapped, trainable mentally handicapped, emotionally handicapped, hearing handicapped, visually handicapped, orthopedically handicapped, speech handicapped, and those handicapped by any disabilities as defined in Item (1), Sec. 21-295 of the 1962 Code." (*Sec. 3, Act 977, 1972*)

" 'Educable mentally handicapped pupils' means pupils of legal school age whose intellectual limitations require special classes or specialized education instruction to make them economically useful and socially adjusted;

" 'Trainable mentally handicapped pupils' means pupils of legal school age whose mental capacity is below that of those considered educable, yet who may profit by a special type of training to the extent that they may become more nearly self-sufficient and less burdensome to others;

" 'Emotionally handicapped pupils' means pupils of legal school age with demonstrably adequate intellectual potential, who because of emotional, motivational, or social disturbance require special classes or specialized education instruction suited to their needs;

" 'Hearing handicapped pupils' means pupils of age four or older who are certified by a licensed specialist that their hearing deficit requires special classes or specialized education instruction suited to their needs;

" 'Orthopedically handicapped pupils' means pupils of legal school age who have an impairment which interferes with the normal functions of the bones, joints, or muscles to such an extent and degree as to require the school to provide special facilities and instructional programs;

" 'Visually handicapped pupils' means pupils of legal school age who either have no vision or whose visual limitations after correction result in educational handicaps unless special provisions are made;

" 'Learning disabilities pupils' means pupils with special learning disabilities who exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling or arithmetic. They include conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfuction, dyslexia, developmental aphasia, etc. They do not include learning problems which are due primarily to visual, hearing, or motor handicaps, to mental retardation, emotional disturbances or to environmental disadvantage;

" 'Physically handicapped children' means children of sound mind and of legal school age who suffer from any disability making it impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools." (*Sec. 21-295 S.C. Stats.*)

Age of Eligibility: Children are eligible for services from the ages six to 21.

IDENTIFICATION AND PLACEMENT

Census: County superintendents, cooperating with school boards, other school officials in the state, and county attendance teachers, conduct an annual survey of physically and mentally handicapped children in the county. Survey results are reported to the state superintendent of education. (*Sec. 21-295 S.C. Stats.*)

Screening: The county department of health is responsible for examining school children of preschool age for physical handicaps that might interfere with their physical and mental development. The department notifies parents of any handicaps and encourages correction of remediable defects. (*Sec. 32-169 S.C. Stats.*)

Special Education Evaluation: Local school authorities, with the assistance of the state department, are responsible for determining, by tests and special examinations, eligibility for special education. No handicapped child is considered eligible without a certified diagnosis by appropriate professional authorities who are acceptable to the state department. The department is also responsible for establishing rules and regulations for screening, classifying and determining, through use of standardized tests and necessary psychological and medical services, eligibility for special education services. (*Sec. 21-295.5 and Sec. 21-295.7 S.C. Stats.*)

ADMINISTRATIVE RESPONSIBILITY

The state board shall establish a program of specialized education for all handicapped children utilizing the personnel and facilities of and administered by the state department under the direction of the state superintendent and shall prescribe standards and approve the procedures under which facilities are furnished and services provided. The board shall establish screening, evaluation, and placement procedures for handicapped students who will participate in programs and shall determine certification requirements for teachers, minimum room size standards, and standards for other equipment and materials used in the programs. The board may promulgate such rules and regulations as it deems necessary and are not inconsistent with law. (*Sec. 2, Act 977, 1972*)

The department of education is responsible for supervising the special education program. In addition, the department is directed to expand its services, through the division of instruction, to include a more extensive program of special education for physically and educable mentally handicapped children. The department should also employ, if necessary, personnel with suitable professional qualifications to develop and supervise the special education program, under the direction of the state superintendent. Salaries will be paid from the appropriation to the state department for the hearing and speech program. (*Sec. 21-295.2 S.C. Stats*)

The state mental retardation department is responsible for administering the South Carolina Retarded Children's Rehabilitation Center. (*Sec. 32-927.12 S.C. Stats.*)

The state school for the deaf and blind is administered by a board of commissioners with the state superintendent of education and the superintendent of the school serving as ex-officio members. (*Sec. 22-451 and 22-456 S.C. Stats.*)

PLANNING

All school districts individually or in combination with other districts must conduct a survey of the educational needs of all handicapped children within their jurisdictions and with the assistance of the state department devise an educational plan for handicapped children. This plan must provide instruction through the use of resource rooms, crisis teachers, itinerant teachers, diagnostic-prescriptive teachers, self-contained classes or other models approved by the state department. The plan must be presented to the department for approval within one year after the effective date of this act. An annual report must be made by each district to the department to indicate the extent to which the plan has been implemented and to report additional planning. (*Sec. 4, Act 977, 1972*)

The board of trustees of all school districts, upon approval of their plan, must establish and operate programs insuring an appropriate education for each handicapped child within their district and must maintain adequate records of the training and services provided and the children participating in the program. When a school district cannot satisfy these requirements because there is an insufficient number of resident handicapped children, the district may contract with other districts within the state or with school systems or institutions outside South Carolina maintaining approved special educational facilities. The sending district must document this lack of numbers and receive prior approval from the state department. The sending district may contract and pay the receiving district or institution the per capita costs of instruction, special equipment, and special services not reimbursed to the receiving district by state, federal, or other monies plus the cost of transportation and of maintenance if the nonresident child must reside away from home. The district entering into the nonresident contract arrangements approved by the state department is reimbursed by the department for tuition fees, transportation, and books not exceeding the per pupil cost of educating a handicapped child of identical age in the public schools. Special arrangements for multiple handicapped children for whom special appropriations are provided because of the severity of their handicaps may be made with the department. District and state educational agencies are required to cooperate with other agencies in the state, both public and private, interested in working toward the education, training, and alleviation of the handicaps of handicapped children. All such agencies are authorized to accept gifts or donations from private agencies. (*Sec. 6, Act 977, 1972*)

FINANCE

The General Assembly will appropriate funds with initial funding for planning and organizing to begin with fiscal year 1972-73. Costs of all programs for handicapped children shall be shared with the school districts on the same basis that education costs are currently provided for such children attending the public schools. These provisions are supplementary to all existing programs for the education of handicapped children. (*Sec. 7, Act 977, 1972*)

Districts will be reimbursed in the following manner for the provision of special education services:

1. For the educable mentally retarded, state aid is granted for each teacher employed with a minimum average daily attendance (ADA) of 10 in a self-contained class or an ADA of 26 for children receiving instruction in a regular class;
2. For each teacher employed with a minimum of 8 in ADA for the trainable mentally retarded;
3. State aid will be allowed for one speech clinician for each 75 speech handicapped children (these children may also be counted for state aid in a regular class) or one clinician per 1500 students in areas where severe speech problems require more intensive therapy;
4. For the emotionally handicapped, aid is granted for each teacher with a minimum ADA of 8 in a self-contained class or 26 children enrolled in a regular class;
5. Special education aid for the hearing handicapped is granted for each teacher with a minimum ADA of 6 in a self-contained class or 12 enrolled in a regular class;
6. Aid for the visually handicapped is allowed for each teacher with a minimum ADA of 6 in a self-contained class or 12 for other instruction in a regular class;
7. Special education aid for the orthopedically handicapped is granted for each teacher employed with a minimum ADA of 8 in a self-contained class or 16 in a regular class;
8. Programs for children with learning disabilities are reimbursed for each teacher with a minimum ADA of 10 in a self-contained class or each teacher serving a minimum ADA of 26 enrolled in a regular class;
9. If a teacher serves more than one type of handicapped child, aid is granted on the basis of the handicapping condition affecting the majority of pupils served by that specialist;

10. If a teacher has less than the required ADA in enrollment, a proportionate part of the salary will be allowed;
11. If there are handicapped children unable to assemble in school, even with the help of transportation, instruction may be provided for them in their homes or in hospitals or in sanitoria. Children so instructed are counted under the provisions of this article. If a child is permanently disabled, $600 per year will be allowed for classroom-to-home video or audio service. The state board is responsible for determining the number of hours acceptable in home instruction. (*Sec. 21-295.3 S.C. Stats.*)

SERVICES

" 'Special education services' shall mean, but not be limited to, special classes, special housing, homebound instruction, special rental facilities, braillists and typists for visually handicapped children, transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, itinerant services and resource services." (*Sec. 3, Act 977, 1972*)

Because it is state policy to provide whenever feasible the resources, assistance, coordination, and support necessary to enable the handicapped to receive an education within the confines of his home and community, individuals previously placed in residential treatment centers should be considered whenever possible as recipients of these services and programs which will offer new resources for their care and training at home. The governing agencies of the residential programs are encouraged to investigate available resources and, if appropriate, work closely with the family guardian and other responsible agents to effect meaningful return of institutionalized persons to the more normal environment of home and community. However, responsible persons in agencies administering residential programs are directed not to view this act as cause for the indiscriminate return home of current institutionalized residents. (*Sec. 7A, Act 977, 1972*)

Prior to the return home of any persons from a residential center advanced written consent of the parent, guardian, or other responsible party must be given. If the parent, guardian, or other responsible party opposes the recommendation of the agency administering the residential program to return the individual home, the agency, based upon professional judgment, may place the individual in another nonresidential program such as a foster home, community residence, half-way residence, or other similar service designed to promote the growth and development of the handicapped. (*Sec. 7, Act 977, 1972*)

" 'Special education program' means education and services carried on through special schools, special classes, and special instruction." (*Sec. 21-295 S.C. Stats.*)

Handicapped children, unable to attend school even with transportation, may be provided instruction in their homes, hospitals, or sanitoria. For permanently disabled children, the cost of classroom-to-home video or audio services is allowed. The number of hours of home instruction acceptable for reimbursement is determined by the state board of education. (*Sec. 21-295.3 S.C. Stats.*)

Special education teachers must have a valid certificate issued by the state department of education and any special qualifications the state board may require or a comparable certificate in special education. (*Sec. 21-295.4 S.C. Stats.*)

The state public library association may provide library services to students in residential schools for the handicapped including the mentally retarded, hard of hearing, deaf, or other health impaired persons, who by reason thereof require special education. (*Sec. 42-203 S.C. Stats.*)

The commission for the blind may employ itinerant teachers to assist teachers in public and private schools responsible for visually handicapped students. The itinerant teachers provide, in addition to aid in teaching methods, instructional materials for the visually handicapped. The state department of education reports those public schools having visually handicapped students to the commission. All principals or heads of private schools have the same responsibility of reporting information. (*Sec. 71-296 S.C. Stats.*)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

SOUTH DAKOTA

RIGHT TO AN EDUCATION

Constitution: "The stability of a republican form of government, depending upon the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education." (*Art. VIII, Sec. 1, S.D. Const.*)

Compulsory Attendance Law: A child may be excused from school attendance if his physical or mental condition renders attendance at school unsafe, impracticable, or harmful either to the child or to others. The existence of the condition must be evidenced by the certificate of a reputable physician, dentist, or any other person who may lawfully treat sickness or disease under the state laws, or by a certificate of a psychologist employed by the state commission for the mentally retarded. (*SDCL 13-27-4*)

Children may be excused from school attendance if, as declared by a reputable physician, they are mentally or physically defective and cannot receive proper instruction in the common schools. If this is so, suitable provision must be made for their instruction or training by private instructors or institutions adapted to such children. If a blind, deaf, or mentally retarded child is not given such instruction, it is the duty of the truancy officer to institute county court action to commit the child to a state institution maintained for the particular type of disability, unless the child is excused from attendance by the superintendent of the appropriate institution. (*SDCL 13-27-5*)

The county auditor of schools also has the power to excuse a child from school if the child, as determined by a reputable physician, is mentally or physically defective and cannot receive proper instruction in the schools. Suitable provision shall then be made for the instruction or training of the child by a private instructor or an institution adapted to the instruction of such children. (*SDCL 15.3030*)

Whenever it becomes known to a superintendent of a school district that any deaf or blind child, residing within the district and entitled to school admission, is being deprived of his education by the refusal or neglect of his parent, guardian, or custodian to provide the child with means of acquiring the education, it is the duty of the superintendent to notify and require the person having control of the child to send him to the proper state school. If within 10 days after the notice the person continues to refuse or neglects this responsibility, the superintendent shall make a complaint to the county judge. The complaint shall note the age and place of residence of the child and shall state that he is being deprived of an education by refusal or neglect of his parent, guardian, or custodian. (*SDCL 13-27-24*)

The judge is then required to order the person having charge of the child to make an appearance within the court, and he may summon and examine any witness as to the facts. (*SDCL 13-27-25*)

If sufficient evidence establishes the fact that the persons having control of the child have been neglectful, the judge may order them to send the child to the appropriate school. If they still refuse, they are then in contempt. (*SDCL 13-27-26 to 12-27-2*[illegible])

Responsibilities: "The Superintendent with the advice of the Division shall have the authority to assign children to a vendor for purposes of special education as provided in this Act. Such assignments must indicate the beginning date for, and the nature of, the specific service to be provided. When a child has been so assigned, the school district wherein such child has school residence shall be responsible for the costs of such special education to the extent hereinafter provided." (*SDCL 13-37-7*)

Governing boards of school districts are responsible for providing an appropriate program for all of their exceptional children. Placement in a jointly operated program will fulfill this requirement. Placement of a child with the approval of the department into an appropriate program in cases where it is unreasonable for the district to provide the program shall also fulfill this requirement. (*SDCL 13-37-14.1*)

POPULATION

Definitions: " 'Exceptional children' means all children under the age of 21 years who are residents of the State of South Dakota and, because of their physical or mental condition, are not adequately provided for through the usual facilities and services of public schools." (*SDCL 13-37-1*)

Age of Eligibility: Exceptional children are eligible for services from birth through age 21.

IDENTIFICATION AND PLACEMENT

Census: The school census shall show the date of birth, place of birth, age as of October 31, actual residence of the child on April 1, the name of the parent or guardian, and will show if the child has any impairment of hearing, sight, speech, or other physical handicap as well as will indicate if the child is qualified for special education instruction due to a mental handicap or emotional disturbance. The form shall be filed with the county auditor. Certified copies of all census data will be sent to the division of pupil personnel services. (*SDCL 13-22-4*)

The state commissioner of mental retardation is responsible for maintaining a continual census of the mentally retarded in the state. All boards of education, school principals, superintendents of schools, hospitals, penal and charitable institutions, county welfare directors, public health officers and public officers of boards of commission within the state are required, upon demand, to give to the commissioner or his agents necessary access to all records regarding all children who are under their control and believed to be mentally retarded. *(SDCL 27-15-5)*

The presidents of school boards are required to send to the superintendent of the state school for the deaf the names of all deaf children (and to the state school for the blind the names of all school age blind children) whenever it is brought to their attention that such children are living within their district. State schools are responsible for taking any necessary action to provide deaf children and blind children with the advantages of proper education. (*SDCL 13-27-10*)

The school census shall identify all children over age six with impaired hearing, sight, or any other physical handicap. This should be filed with the county superintendent of schools on or before the first Monday in May. A copy should also be retained in the office of the specific school district involved. (*SDCL 13-22-4*)

All school boards should annually report to the district superintendent who, in turn, reports to the division of child welfare, the number, name, and age of all the children who are three or more years retarded. *(SDCL 27-15-9)*

Screening: County boards of health may require that the county nurse examine the eyes, ears, nose, throat, and teeth of all pupils enrolled in the county public schools. The county nurse will then confidentially report to the board of health any cases which, in her opinion, are cases of tuberculosis, infantile paralysis, diptheria, small pox, scarlet fever, measles, chicken pox or any other contagious, communicable, or other disease disclosed in the examinations. (*SDCL 34-4-8*)

Special Education Evaluation: Before a child may enroll in a special education program, the nature of his handicap must be evidenced by a certificate of a qualified person or physician (as defined by the state board of education) and by information furnished to the division of pupil personnel services. After two years and every year thereafter, the division must determine whether an exceptional child is capable of profiting by further specialized instruction. Children will be eligible for services only as long as progress is determined to exist. (*SDCL 13-37-4 and 13-37-5*)

No state appropriations or other funds available to the division of pupil personnel may be used for out-of-state placement of emotionally disturbed children who are assigned there for purposes other than education. Children in need of out-of-state placement for treatment of an emotional disturbance shall be referred by the division to the state commission on mental health and mental retardation for assignment, care, and treatment. (*SDCL 27-3-25*)

ADMINISTRATIVE RESPONSIBILITY

The superintendent is authorized and directed to implement a special education program for the state under the supervision of the office for exceptional children and to prepare the rules and regulations for the consideration of the state board. (*SDCL 13-37-14*)

A five-member board of regents appointed by the governor is responsible for administration of the school for the deaf and the school for the blind. (*Art. XIV, Sec. 3, S.D. Const.*)

The department of public instruction, through all its related divisions, shall authorize its services to be available to the state commission for the mentally retarded and the county sub-commissions and to the Redfield State Hospital and School in order to assist these agencies in educating and training mentally retarded persons (eligible for department of public instruction services) so that they might become engaged in remunerative occupations. (*SDCL 13-37-23*)

The state library commission is responsible for the provision of all library services through public or non-profit organizations for the physically handicapped. (*SDCL 14-1-31*)

The state school for the mentally retarded is under the control and supervision of the board of institutions and correction. (*SDCL 30.0601*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

Costs for administration of special education programs, individual auxiliary services, and state aid for special education are treated as separate programs and must be specifically delineated at the department's budget request. The superintendent, with the advice of the division, has the authority to assign children to vendors. (A vendor is defined as "a school district, individual or private, non-profit institution which furnishes facilities or services, or both, for the special education of exceptional children.") To obtain special education services after a child has been assigned, the school district of residence is responsible for the cost of special education, which will be determined as follows:

1. The cost of special education incurred by a school district will be determined by dividing the total salaries of special education personnel by 80 percent.
2. The cost of special education as determined in (1) will be paid to districts from monies provided by the legislature. Since appropriations are variable, a ratio for reimbursement is determined by dividing the total state cost by the legislative appropriation.
3. Costs of special education not covered by the appropriation are the responsibility of the resident school district. The district's share will be raised through the tax levy.
4. The superintendent is directed to establish rates for auxiliary services provided on an individual case basis. In the case of exceptional children assigned by the state, the cost of auxiliary services after deducting state aid will be paid from the special education fund of the district of residence.
5. Tuition for exceptional children assigned by the division to attend a private school or institution will be at the legal rate of tuition ($5.06 per day) provided by state law for secondary schools regardless of the child's classification. The tuition will be at paid from the special education fund in the child's district of residence.
6. The cost of maintenance, including board and room, may be provided by the district in lieu of transportation and may not exceed $3 per day per child. This is also to be paid from the district special education fund.
7. Costs for basic extra and necessary transportation will be determined and authorized by the district of residence. Extra necessary transportation costs for exceptional children includes transportation allowing children to attend school and participate in auxiliary services to which they have been assigned and will be the responsibility of the school district.
8. If transportation is not provided by the school district of residence, reimbursement at the rate of seven cents per mile not to exceed $600 per fiscal year will be granted to the district of residence which will pay costs out of its special education fund.
9. Payments received by a school district for special education must be credited to the special education fund of the school district. (*SDCL 13-37-8*)

The governing boards of all school districts, with the assistance of their own administrative personnel and the division, must by July 10 of each year estimate the number of resident exceptional children who are expected to participate in special education programs during the current school year. The anticipated cost of providing such services must then be estimated. The governing board of the school district must then include in the current district tax levy a special levy (in addition to all other levies) not exceeding two mills on the dollar. This levy will be applied to all the taxable property in the district. These revenues constitute a district's special education fund for the payment of the special education cost for all exceptional children residing within the district. All districts, even though not operating a special education program, must make the initial levy in order to insure the payment of claims due to the assignment of exceptional children.

Within one year after the close of the school year, all vendors entitled to reimbursement must file with the governing board of each district an itemized, verified claim for each student. Claims may be filed at the end of each semester. Each claim must be audited and approved, on the basis of legal assignments from the superintendent, prior to payment from the school district's special education fund to those who furnished facilities and services for the special education of exceptional children. (*SDCL 13-37-15*)

A revolving fund for payments is established in the office of the state treasurer by the superintendent to facilitate payments to vendors providing services on a monthly basis. This revolving fund is established with funds transferred from monies appropriated by the legislature to take care of the state's share of the costs of the total special education program. The fund will be maintained through reimbursement from school districts for their obligations and from other involved agencies for their share of the cost. The amount to be transferred to the revolving fund will be based on the estimated number of cases served during the fiscal year. (*SDCL 13-37-2*)

If a child under the care and custody of the public welfare department residing in an institution is assigned by the state superintendent to a special education facility or service, the state will be responsible for auxiliary services, maintenance charges, and transportation costs. The state will bear the same charges for children in foster homes who are assigned to private, nonprofit institutions for educational purposes. (*Chap. 138, 1971*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

"School districts may contract with each other to share the services of a superintendent of schools, a business administrator, supervisors, specialists, teachers, and any other employees." (*SDCL 13-15-1.1*) See Finance.

SERVICES

" 'Special education' means classroom services and auxiliary services provided exceptional children pursuant to the provisions of this act and shall include school instruction conforming as nearly as possible to the established state course of study under duly qualified special education teachers or other necessary services, or both, to the extent that an exceptional child is capable of profiting from special education." (*SDCL 13-37-2*)

" 'Classroom services' means instruction provided exceptional children by qualified teachers, instructional materials and equipment needed for special education purposes, and necessary classroom supervision assistance."

" 'Auxiliary services' means diagnosis, therapy, vocational counseling, vocational rehabilitation and training, homebound instruction, and such other necessary services other than classroom which might be approved by the state board of education." (*SDCL 13-3-1-3.1*)

Exceptional children receiving care in state institutions are excluded from the benefits of the special education provisions. No special education funds may be spent for children in any state-owned institution within or without the state of South Dakota except for services not provided by the state. (*SDCL 13-37-6*)

Visually handicapped residents eligible for entrance to any of the educational institutions under the supervision of the state board of regents are permitted to pursue any course of study offered by these institutions without payment of tuition, library fees, registration fees, or any other fees students are required to pay directly, until an equivalent of 225 semester hours of credit has been earned. Visually handicapped persons are those who cannot, even with the use of corrective glasses, see adequately to perform ordinary activities for which eyesight is essential. Before any person is eligible for these benefits, the South Dakota services to the visually handicapped must notify, in writing, the registrar of the educational institution that, based upon the medical information filed with the state service, the applicant is visually impaired to the extent specified in the law. (*SDCL 35-55-11*)

PRIVATE

Private, nonprofit institutions providing services to exceptional children may recover, on a monthly basis, approved costs from the special education funds of the school districts. Vendors (who are individuals or private nonprofit institutions providing services to legally assigned exceptional children on an individual or out-patient basis) will be paid monthly from the state revolving fund. See Finance. This fund will be reimbursed monthly from school district special education funds upon presentation of vouchers to the superintendent of schools for its share of such expenditures. (*SDCL 13-37-16.1*)

School districts are authorized to enter into contracts with non-profit private schools or institutions to provide special education services for children with learning diabilities. The schools or educational services must be approved by the state board for assignment of these children, on an individual basis, by the department of public instruction. The instructors of these schools must also meet the certification requirements of the state board. (*SDCL 13-15-1.2*)

PERSONNEL

Statutes contain no specific provisions for handicapped in this area.

FACILITIES

Statutes contain no specific provisions for handicapped in this area.

TENNESSEE

RIGHT TO AN EDUCATION

Constitution: "Knowledge, learning and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conclusive to the promotion of this end, it shall be the duty of the General Assembly in all future periods of this government, to cherish literature and science." (*Art. XI, Sec. 12, Tenn. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 are required to attend the public schools during the school year. Children physically and mentally incapable of performing school duties may be exempted from attendance with the county, city, or special school district board of education as the sole judge. A licensed physician must certify the disability. (*Sec. 49-1710 TCA*)

Compulsory school attendance is required of all blind children between the ages of seven and 16, but this section does not apply to blind children who are also mentally or physically defective and incapable of benefiting from school attendance. Compulsory attendance requirements do not apply to any child who has graduated from the elementary school of the Tennessee School for the Blind before reaching age 16. *(Sec. 49-1730 TCA)*

Policy: "It is the policy of this state to provide, and to require school districts to provide, as part of free public education, special education services sufficient to meet the needs and maximize the capabilities of handicapped children. The timely implementation of this policy to the end that all handicapped children actually receive the special education services necessary to their proper development is declared to be an integral part of the policy of this state. This section applies to all handicapped children regardless of the schools, institutions, or programs by which such children are served." (*Sec. 1 Chap. 839, 1972*)

Responsibilities: The state board and every local district should strive to provide appropriate educational services for handicapped children at the earliest possible date. However, special education services shall be provided for all handicapped children by the 1974 school year and all plans, both state and local, must be constructed to accomplish this. An incremental program approved by the state board and accomplished in no more than three phases must be prepared by local school boards within sixty days of the approval of this act. (*Sec. 5C, Chap. 839, 1972*)

The state board of education shall provide or cause to be provided by school districts, all regular and special education, corrective and supporting services needed by handicapped children so that they receive the benefits of a free public education appropriate to their needs. The commissioner of education has the jurisdiction to organize and supervise schools and classes according to the regulations and standards established for the conduct of public schools and classes in all institutions wholly or partly supported by the state but not supervised by public school authorities. The department of education shall finance schools and classes in wholly owned state institutions. (*Sec. 2, Chap. 839, 1972*)

Nothing in this special education law may be construed to limit any right which any child, his parent, or guardian has to enforce the provision of any regular or special educational service. Neither shall the time phases allowed school districts to submit plans or proceed with implementation of special education programs be taken as authorizing any delay in the provision of education or related services to which a child is entitled. (*Sec. 8A, Chap. 839, 1972*)

POPULATION

Definitions: " 'Handicapped child' means handicapped children and youth between the ages of four and twenty-one years inclusive who have been certified under regulations of the state board of education by a specialist as being unsuited for enrollment in regular classes of the public schools or who are unable to be educated or trained adequately in such regular programs without the provision of special classes, instruction, facilities or related services, or a combination thereof. This term includes the educable, trainable and profoundly retarded; the speech and/or language impaired; the deaf and hearing impaired; the blind and visually limited; the physically handicapped and/or other health impairments including homebound, hospitalized and pregnancy; the learning disabled including perceptually handicapped, emotionally conflicted, functionally retarded, and socially maladjusted; the multiple handicapped; and the intellectually gifted; and any other child whose needs and abilities cannot be served in a regular classroom setting." (*Sec. 3A, S.B. 72*)

"The term 'exceptional children' shall be construed to include children of school age and under 21 years of age of educable mind, whose bodily functions or members are so impaired that they cannot be safely or adequately educated in the regular classes of the public schools without special education services, and to include children of school age and under 21 years of age who are psychologically exceptional, and to include children of preschool age down to and including the age of three years who are deaf."

The children eligible for the state schools for the blind and deaf are not included under the definition of exceptional children. (*Sec. 49-2901 TCA*)

Age of Eligibility: Handicapped children are eligible for services between the ages of four and 21. (*Sec. 3A, S.B. 72*)

Children between the ages of six and 21 are eligible for special education services. Deaf children are eligible for services between the ages of three and 21. (*Sec. 49-2901 TCA*)

IDENTIFICATION AND PLACEMENT

Census: The department of education must furnish to the department of public health a list obtained from the school census, of all physically handicapped or crippled children of school age or younger. For the listing of each child below school age, the sum of 10¢ will be allowed to the enumerator. It is the duty of the county boards of education and of the city boards and the cities maintaining separate school systems to enumerate all physically handicapped and crippled children of school age or younger residing within their jurisdiction and to furnish to the department of education a list of such persons. (*Sec. 53-1908 TCA*)

See planning.

Screening: All school districts must test and examine each child attending the public and private schools within its boundaries to determine whether the child is handicapped. The tests and examinations must be administered on a regular basis according to state department rules and regulations. Schools as used in this section include kindergarten through grade 12. (*Sec. 6A, Chap. 839, 1972*)

This testing requirement does not apply to children attending private schools who are not state residents. If the state or a school district has an agreement with another state or school district requiring these tests and examinations, the school district must administer them and report the results to the school district of the child's residence. (*Sec. 6B, S.B. 72*)

All school districts are required to make and keep a current list of all handicapped children tested and examined, found to be handicapped and of all resident children receiving home, hospital, institutional or other special education services not in regular programs. (*Sec. 6C, Chap. 839, 1972*)

Special Education Evaluation: To the maximum extent possible handicapped children must be educated with children without handicaps and attend regular classes. Impediments to learning and normal functioning of handicapped children in the regular school environment should be overcome by providing special aids and services rather than by separate schooling. Special classes, separate schooling, or any other removal of children from a regular educational environment should occur only when the extent of severity of the handicap is such that education in regular classes even with supplementary aids and services cannot be satisfactorily accomplished. (*Sec. 2B, Chap. 839, 1972*)

A child or his parent or guardian may obtain a review of an action or omission by state or local authorities on the grounds that the child has been or is about to be:

1. denied entrance or continuance in a program of special education appropriate to his condition and needs;
2. placed in a special education program inappropriate to his condition and needs;
3. denied educational services because no suitable program exists;
4. provided special education or other education in sufficient quantity to satisfy legal requirements;
5. provided special education or other education by units of government or in situations without the primary responsibility for providing the services in question; or
6. assigned to a program of special education when he is not handicapped.

The parent or guardian of a child placed or denied placement in a special education program must be promptly notified by registered, certified mail with return receipt requested of the following:

1. the placement, denial, impending placement, or denial of the child;
2. a statement informing the parent or guardian that he has right to a review of the determination and the procedure for obtaining the review must be included;
3. the information that a hearing may be held upon a written request no less than fifteen days nor more than thirty days from the day on which the notice was received must also be enclosed.

No change in the program assignment or status of a handicapped child may be made during the period granted the parent or guardian to request a hearing, i.e., not less than fourteen days, without the written consent of the parent or guardian. If the health of safety of the child or of other persons is endangered by the delaying of the change, the change may be made sooner but without prejudicing any rights of the child and his parent or guardian. The parent or guardian has access to any reports, records, clinical evaluation(s), or other materials on which the determination to be reviewed was based and which could reasonably have a bearing on the correctness of the determination. At the hearing the child, his parent, or guardian is entitled to examine witnesses, introduce evidence, appear in person, and be represented by counsel. A full record of the hearing must be made including a transcript if requested by the parent or guardian. If the parent or guardian believes a diagnosis or evaluation as shown in available records is in error, he may request an independent examination or evaluation of the child and has the right to secure it. The report is then presented in evidence at the hearing. If the parent or guardian is unable to afford an independent examination or evaluation, it is provided at state expense.

The state board shall periodically amend rules and regulations for conducting hearings. Among other things the rules and regulations must require that the hearing officer or board be composed of person(s) other than those who participated in the initial action and who were responsible for the determination in question, specify the qualifications of the hearing officer(s), and provide that the hearing officer or board has the authority to affirm, reverse, or modify the action previously taken and to order the taking of appropriate action. The rules and regulations shall also govern proceedings whether held by the state board or by a county, city, or special school district board of education. The determination of a hearing officer or board is subject to judicial review in the manner provided for judicial review of the determinations of a state or local agency. If a determination of a hearing officer or board is not fully complied with or implemented, the aggrieved party may enforce it by a proceeding in the chancery or circuit court. Any such action shall not prevent any administrative or judicial proceeding by or at the insistence of the state department to secure compliance or otherwise secure proper administration of laws and regulations relating to the provision of regular or special education. These remedies are in addition to any other remedies which a child, his parent, or guardian may have. (*Sec. 8A, Chap. 839, 1972*)

ADMINISTRATIVE RESPONSIBILITY

A division for the education of the handicapped in the state department of education headed by an assistant commissioner qualified by education, training and experience to direct the state programs relating to the education of the handicapped is established. The division will assume the duties and responsibilities currently the function of the area in special education of the State Department of Education as well as those duties and responsibilities described in this act. The commissioner is responsible for appointing the assistant commissioner to head the division. The advisory council for the education of the handicapped (see Planning) may recommend qualified persons for this position. (*Sec. 4A, Chap. 839, 1972*)

If the state department finds that a school district fails to provide necessary education to all eligible handicapped children, the state department may withhold all or a portion of the state aid for the regular public schools. This denial of aid may continue until the failure to provide special education is remedied. Whether or not the state department withholds such aid, it may provide the education services directly. Before withholding aid the state department must conduct a public hearing on due notice and on a record establishing the failure of the school district to provide special education of both adequate quantity and quality.

Services provided directly by the state may include:

1. the hiring, employing and directing special education teachers and other necessary personnel;
2. incorporating of the personnel into the affected school system;
3. procuring and employing any necessary supplies, equipment, materials and facilities;
4. the furnishing of necessary administrative supervision and services to make the program effective;
5. direct supervision of state institutions or facilities of special education, but no child may be removed from the school district in which he is entitled to receive special education without the consent of his parent or guardian; and
6. any other matters incidental to the implementation of the program. (*Sec. 8C, Chap. 839, 1972*)

Any costs incurred by the state department in providing direct services because of local district failure to provide services are assessed against the school district. If the school district resists paying within a specified period, the state department may make the payment and reimburse itself by appropriate judicial proceedings against the school district. During any time the state department is providing special education services directly, it must have as its purpose to assist the school district to assume or reassume its full responsibilities. However, no state aid shall be given to a school district during or for any period when the provision of special education on its account is being administered directly by the state. The state department of education shall return responsibility to the school district as soon as it finds it is willing and able to fulfill its legal responsibilities pursuant. (*Sec. 8D, Chap. 839, 1972*)

The Tennesee School for the Blind and the Tennessee School for the Deaf are under the supervision of the state board of education. *(Sec. 4-310 TCA)*

The department of mental health has jurisdiction over mental health facilities and institutions, including the schools for the mentally retarded. (*Sec. 4-321 TCA*)

The commissioner of the department of mental health has the responsibility of supervising the education program at the Tennessee Re-education Center for Emotionally Disturbed Children. (*Sec. 33-1404 TCA*)

The state board of education is responsible for establishing standards and policies for the minimum requirements for admission to, and discharge from, special schools and special classes; for providing special instruction to individual children; prescribing modifications of curriculum needing adjustment to meet the needs of exceptional children at special schools, special classes, and special instruction for the individual children, and for providing professional services for determining eligibility of exceptional children for admission to special schools, special classes, and individual instruction, if such services are not available through other state or local agencies. The board is also responsible for adopting teacher-pupil ratios for special education classes and methods of instruction for exceptional children as well as for prescribing standards of qualifications for teachers and other personnel for whom qualifications have not been previously established. (*Sec. 49-2902 TCA*)

The state board of education is the designated agency for cooperating with other state agencies, private agencies, and with state and private institutions concerned with the health, education, and welfare of exceptional children for the purpose of integrating medical treatment, education, and rehabilitation of exceptional children. *(Sec. 49-2902 TCA)*

The state board of education is responsible for adopting plans for establishing and maintaining classes in the public schools, homes, convalescent homes, and hospitals for exceptional children. (*Sec. 49-2902 TCA*)

PLANNING

The advisory council for the education of the handicapped will advise and consult with the governor, commissioner of education, state board, and director of the division. The advisory council is composed of nine members who are not officers or employees of state agencies. No more than four of these nine may be officers or employees of school districts. The governor will appoint the members of the advisory council for three-year terms. The advisory council must be composed of persons broadly representative of community organizations interested in the handicapped, professions related to educational needs of the handicapped, and the general public. The chairman and vice chairman of the council shall be elected by its own members. The director of the division of education of the handicapped meets with the council and serves as secretary to it. With available personnel and appropriations the director will furnish the meeting facilities and staff services for the council. The department of education must regularly submit as part of its budget a request sufficient to cover operating expenses of the advisory council and of its members in connection with their attendance at meetings and advisory council activities. The council shall also:

1. Comment on proposed rules and regulations;
2. Consider any problems presented to it by the governor, commissioner, state board, or the director of the division for the education of the handicapped;
3. Review the state plan prior to its submission to the governor and legislature; and
4. Submit an annual report to the governor, legislature, and state board.

The report will be available to the general public and must present the views of the council on the progress or lack of it made in special education by the state, its agencies and institutions, and school districts during the preceding year. (*Sec. 4B, Chap. 839, 1972*)

The commissioner, acting through the division for the education of the handicapped, is responsible for making and keeping current a plan to implement this act. The plan must include provisions for:

1. A census of all handicapped children showing both the total number of children and their geographic distribution;
2. Diagnosis and screening of handicapped children;
3. An inventory of the personnel and facilities available to provide instruction and services for handicapped children;
4. An analysis of the present distribution of the responsibility for special education between state and local systems and general units of local government together with any recommendations for changes in the distribution and responsibility;
5. Identification of the criteria for determining how handicapped children are to be educated;
6. Standards for the education of all categories of handicapped children in regular schools or school districts and in state institutions including methods of assuring that the education afforded the handicapped will be nearly equivalent to that afforded to nonhandicapped children and will take into account the special needs of the handicapped;
7. A program for the preparation, recruitment, and inservice training of personnel in special education and allied fields, including appropriate participation by institutions of higher learning, state and local agencies, and any other public and private entities with relevant expertise;
8. Programs to develop, acquire, construct, and maintain facilities;
9. A full description of the state plan providing special education to all handicapped children including each of the matters listed here and any other necessary or appropriate matters; and
10. Any necessary additional matters including recommendations for amendments of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support. (*Sec. 5A, Chap. 839, 1972*)

This plan must be presented to the governor and the general assembly and made available for public distribution no later than October 2, 1972.

Any amendments or revisions after the first submission must be submitted to the governor, general assembly, and public at least 90 days prior to the convening of the regular session of the assembly. All plans submitted after the initial submission must detail progress made in fulfilling the plan and in implementing the policy of this act. (*Sec. 5A, Chap. 839, 1972*)

By July 1 annually each school district must report to the commissioner and the state board the extent to which it is providing special education for handicapped children. The report must detail the means by which the school district or political subdivision proposes to secure full compliance with state policy including:

1. statement of the extent to which the district is directly providing necessary education and services;
2. a precise statement of the extent to which standards for normalization are being enforced; and
3. an identification and description of the means the school district or political subdivision will employ to meet state standards for all special education not provided directly by the state.

In addition to the annual report, the school district must submit any supplemental reports required by the commissioner and state department to keep the plan current. The state department will prescribe the due dates, the forms, and any other necessary matters relating to these reports.

Handicapped children receiving special education in state facilities continue to be the planning responsibility of the school district of residence. The school district must keep records for each child including the nature and degree of his handicap and the way in which his educational needs are being met. (*Sec. 5B, Chap. 839, 1972*)

The first phase of the plan which began within sixty days of the approval of this act was a census of persons who if thereafter certified by a specialist would probably qualify as exceptional children. The census must show the name, age, sex, and type of exceptionality of each child. All the data descriptive of an individual person must be maintained in strict confidence. Individual data will not be made available to anyone except the survey takers in connection with those individuals reported by them, the appropriate superintendent and his staff, the appropriate school principal, and any other person designated in regulations adopted by the state board, and under the conditions adopted by the state board. The first phase also includes a survey of existing programs, services, and facilities together with a study of current national trends in providing services for exceptional children. The study includes not only appropriate instructional services, such as instructional resource and tutorial programs, but also physical facilities including portable classrooms necessary for exceptional children.

The second phase of the plan could begin as early as sixty days after approval of the plan by the state department and could operate in conjunction with the census and surveys. This is a program of training professional and paraprofessional personnel. It is to begin within six months after the approval of the act. This phase provides for the initial training and the retraining of selected professional and paraprofessional personnel (teacher aides), in accordance with the need for such personnel as revealed in the census taking into account the personnel already available. The training programs should not be limited to new teacher recruits but must also include experienced special education teachers in a well planned sequential training program emphasizing a teacher as an educational diagnostician and a planner and utilizing teacher aides to assist in the implementation of the program. As much as possible training programs should be in-house, using qualified local school district staff as well as university personnel. "The teacher training program should demonstrate a philosophy in a school environment and atmosphere, minimizing labeling and emphasizing the child as a part of rather than apart from."

The third phase of the implemental plan is the establishment of special educational classes and services to those handicapped children and youth residing within the school district and/or system. The local school system and/or district will make provisions enabling continuous progress so that a full program of special education services will be provided for all handicapped children and youth by the beginning of the 1974-75 school year.

Within sixty days of the effective date of this act all school boards must prepare and adopt an incremental plan for the implementation of appropriate instruction and special education services including a procedure for certifying exceptional children by specialists. The plan is then submitted to the state board. The plan is binding upon the local school board and must be adhered to unless subsequent modifications are approved by the state board. If the state board disapproves a plan, representatives of the state board must consult with and advise the local board in an effort to formulate a plan which can be approved. If no plan is agreed upon, the state board within thirty days must provide a plan to be adhered to unless the school board within thirty days thereafter files suit in the circuit court of Davidson County in equity to restrain the enforcement of the plan on the ground that it is arbitrary, impracticable, detrimental to the education of exceptional children, or invalid. Only the specified court has the jurisdiction in these suits and all suits will be given a preferred setting. (*Sec. 5C, Chap. 839, 1972*)

All state and local plans must take into account the advantages and disadvantages in providing special education to particular kinds of handicapped children through cooperative undertakings with other jurisdictions. The state or a school district may enter into agreements with other school districts or states to provide special education, but a child receiving special education outside the district of his residence continues to be the responsibility of the school district and does not relieve the school district of compliance with the requirements of this act. Agreements may include furnishing of educational and related services, payment of reasonable costs, making of capital contributions toward the construction and renovation of joint or common facilities or facilities regularly available by one party jurisdiction, and the furnishing of or responsibility for transportation, lodging, food, and related living costs.

Any child and his family given educational or related services continues to have all civil and other rights he would have if receiving educational or related services within the subdivision of the school district where he would normally attend public school. No agreement made on this section is valid unless containing such a provision. (*Sec. 5D, Chap. 839, 1972*)

FINANCE

An amount equal to the expenditure for nonhandicapped children must be expended for each handicapped child by local governments and school districts. Necessary funds for supplementary aids and services are the ultimate responsibility of the state but, to the maximum extent possible, shall be administered through local school districts. (*Sec. 2D, Chap. 839, 1972*)

State aid is determined and paid in accordance with this section and the rules and regulations of the state board. Financial aid shall be paid to any public school district or any other entity entitled by the laws of the state to receive school aid for each of the following program elements:

1. The education of the handicapped children in regular school programs;
2. The education of handicapped children in special classes, schools, and programs designed to meet their special needs and the furnishing of corrective or remedial services designed to eliminate or ameliorate physical, mental, emotional, or learning disabilities or handicaps; and
3. The furnishing of transportation. (*Sec. 11B, Chap. 839, 1972*)

For state aid purposes, handicapped children will be counted in the same manner as other children. In addition to regular state aid, any school district or special services association maintaining an approved program of education for handicapped children is entitled to receive reimbursement from the state for the excess cost of individuals in the program above the cost of the pupils in the regular curriculum determined in the following manner:

1. All districts must keep an accurate, detailed, and separate account of all monies paid out for the maintenance of each of the types of classes and schools for the instruction and care of pupils attending them and for the cost of their transportation, and must annually report indicating the excess cost for elementary or high school pupils for the school year over the last ascertained average cost for the instruction of regular children in the elementary or secondary public schools.
2. Each special education services association must keep an accurate, detailed, and separate account of all monies paid out by it for the maintenance of each type of classes in schools for the instruction and care of pupils attending them and for the cost of their transportation and must annually report the excess cost for elementary or secondary public schools of the school districts served by the special education services association for a like period of attendance.
3. In addition to any state aid for the transportation of children to and from school or other transportation in connection with school related activities, the state department upon a properly substantiated claim shall pay 100% of the cost of special buses and other special equipment actually employed in transporting handicapped children. (*Sec. 11C, Chap. 839, 1972*)

If any of the educational or other services under this section are provided partly by one school district or other entitled entity and partly by another such district or entity and if there is no valid contract or agreement by which one of the districts or entities is the proper claimant for all of the aid in question, each district and entity is entitled to claim and receive a proportionate share of state aid in accordance with its actual assumption of costs. The state department shall provide for the calculation and apportionment of state aid in such cases. (*Sec. 11D, Chap. 839, 1972*)

State minimum foundation aid includes the following areas: administration and supervision, teacher salaries, travel for itinerant personnel, maintenance and operating costs, regular transportation, plus three special appropriations for textbooks, capital outlay, and leave for teachers. *(Ch. 43, Public Acts 1971)*

The state board of education is authorized to purchase or otherwise acquire, from the funds provided for "excess cost" by the general assembly, special transportation, special equipment, and special instructional materials for use in special education programs. Special equipment and instructional materials that are not expendable may be provided on a loan basis to county, city, and special school district boards of education according to the terms prescribed under the state board's rules and regulations governing their use. Attendants may be provided in special schools or classes if, in the judgment of the state commissioner of education, the physical condition of the children in the special classes or schools makes it necessary. (*Sec. 49-2902 TCA*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

A school district may independently provide education, corrective and supporting services for handicapped children, or may fulfill its obligation to provide special education services by participation in a special education services association. School districts may perform all or part of their special education functions through participation in a special education services association. School districts must provide special education or related services not provided by the association on an individual basis or in any other approved manner. A services association must provide services for the entire area included within the school districts participating in it. The association may be established by resolution of each of the governing boards of the participating districts.

The governing board of the special education services association consists of representatives of participating districts. Unless otherwise noted in the written agreement establishing the association, each participating district has one representative. The representatives to the governing board are elected from its own members by the respective governing boards of the school districts. Each representative has one vote.

Special education services associations have the power to:

1. Establish and operate programs and classes;
2. Acquire, construct, maintain, and operate facilities to provide education and corrective and supporting services for handicapped children;
3. Arrange with participating districts to provide necessary special education services;
4. Employ special education teachers and other appropriate personnel;
5. Acquire, hold, and convey real and personal property;
6. Provide any required transportation;
7. Receive, administer, and expend funds appropriated for its use;

8. Receive, administer, and expend the proceeds of any school bond issue or any other bonds intended wholly or partly for its benefit;
9. Apply for, accept, and utilize grants, gifts, or any other assistance;
10. Participate and make its employees eligible to participate in any retirement or group insurance system or any other program of employee benefits on the same basis as other school districts and their employees; and
11. Conduct any other activities necessary and incidental to carrying out the foregoing powers or any other powers conferred upon the association elsewhere in the laws of the state. (*Sec. 4F, Chap. 839, 1972*)

Services associations may operate special education centers to provide diagnostic, therapeutic, corrective, or other services on a more comprehensive, expert, economic, and efficient basis than a single school district. These services may be provided in regular schools utilizing center equipment and personnel when necessary in its own facilities. (*Sec. 4G, Chap. 839, 1972*)

These centers may also contain classrooms and/or other educational facilities and equipment to supplement instruction and other services for handicapped children in regular schools and may provide separate instruction to children whose degree or kind of handicap makes it impractical or inappropriate for them to participate in classes with normal children. These centers may include dormitories or related services and facilities for handicapped children unable to commute daily for education and related services. No facilities may be constructed unless the services association receives a permit from the division for education of the handicapped. The permit may contain any conditions the division feels necessary to assure conformity with state policy. Permits are issued only if the division is satisfied that all efforts have been made to accommodate the education and related services in a regular school building or on regular school premises and that separate facilities are necessary. (*Sec. 4G, Chap. 839, 1972*)

Services associations shall provide all education and corrective and supporting services for all handicapped children and residents except for those special education and corrective and supporting services provided directly by the state or by individual school districts as provided in the written agreement. A services association may make arrangements with private schools, institutions, and agencies for services to handicapped children if it is unable to provide appropriate services with its own facilities and personnel or the facilities and personnel of its member district. Home or hospital instruction and corrective and supporting services are provided only if the nature and severity of the handicap make such provision in the regular schools or in any other facility of the services association, the state, or a suitable private facility impractical.

An individual school district may qualify for state aid as a special education services association if it provides a full complement of education and corrective and supporting services exclusive of services provided directly by the state for all handicapped children within its boundaries. The state board of education is responsible for determining whether the applicable school district meets the requirements of a services association. (*Sec. 4H, Chap. 839, 1972*)

A services association in the process of formation must submit to the state board the interschool district agreement under which it proposes to function. This may be submitted either prior to or subsequent to the adoption of the agreement and resolution, but no special services association may receive state aid until the state board approves the agreement. Associations are approved for state aid if the state board determines that:

1. The association complies with the special education provisions or if the association is not yet in operation, that it will have the resources and authority to comply;
2. The geographic area served or to be served by the association is not so located or of such a configuration to exclude one or more of the school districts from effective participation in the services association or from forming a viable association of their own.

Any district may apply for and receive the status of a special education services association by submitting to the state board an appropriate resolution of its governing board requesting this status. No association shall be approved by the state board unless it finds that the school district maintains a full complement of special education facilities and programs and complies with all provisions of this act. (*Sec. 4I, Chap. 839, 1972*)

All services associations other than those composed of a single school district must function pursuant to an interschool district agreement. The agreement may be incorporated in the resolution or other action forming the association or may be a separate document. It must be adopted by either an affirmative vote of each governing board of the participating school districts or by affirmative vote of the electors in each district. The agreement must contain:

1. Identification of the participating school districts;
2. An enumeration or precise delineation of the services to be provided;
3. Provisions describing the internal management and control of the association;
4. Provisions defining the relationship between participating school districts and the association in regard to responsibilities for the regular education of handicapped children and special education and corrective and supporting services for these children;
5. Provisions denoting the financial responsibilities of all participating school districts or formulas, procedures, or other methods for the calculation of the district's financial responsibilities;
6. Minimum duration of the agreement;
7. Provisions for the disposition of association property if the agreement is dissolved;
8. Financial settlement, if any, with a withdrawing school district; and
9. Any other necessary or appropriate provisions. (*Sec. 4J, Chap. 839, 1972*)

The agreement must be submitted to the state board and the attorney general prior to its becoming effective and must be approved by both units. If the state board and attorney general do not respond to a submitted agreement within 90 days approval is assumed. The state board is required to approve any agreement unless it finds that the provisions do not agree with the provisions and policy set forth in this act or if it finds that the agreement does not contain sufficient evidence that the services association will have the means of providing the facilities, personnel, and services to fulfill its obligations. The attorney general shall approve an agreement unless he finds it to be in improper form or if one or more of its provisions is contrary to law. (*Sec. 4J, Chap. 839, 1972*)

School districts wishing to withdraw from the services association or from any part of the association must obtain the approval of the director of the division for the education of the handicapped. The director may grant approval only after conferring with the district and assessing that the withdrawal is in the interest of handicapped children in the association and school district. The withdrawal is effective only if the school board has the approval of the director to establish a comparable program. The withdrawal is not effective until the end of the next full school year. The withdrawing district is liable for its proportionate share of operating costs until its withdrawal becomes effective and will continue to be liable for its share of debts incurred while it was a participant and receives no share in the assets. (*Sec. 4L, Chap. 839, 1972*)

An association may be dissolved by its governing board but the dissolution cannot take place until the end of the school year in which action is taken. All assets and liabilities are distributed to all entities participating in the association. (*Sec. 4L, Chap. 839, 1972*)

The state commissioner of education may distribute to a county, city, or special school district minimum school program "excess cost" funds not exceeding $5 per day or $1,000 per year for each multiply handicapped child approved by the state commissioner to help pay for educational services and facilities for multiply handicapped children. If there are no facilities within the state to provide for such children, and if the county, city, or special school district of residence supplements the state funds in an amount necessary to provide appropriate educational services and facilities, these children may be sent to out-of-state facilities. The maximum amount of $1,000 per year covers a 200-day school year. For any lesser number days reimbursement will be reduced proportionately. (*Sec. 49-3019 TCA*)

The state board of education is responsible for assisting two or more county, city, or special school district boards of education in establishing classes through a cooperative contract in districts having insufficient numbers of students to warrant the establishment of such class singly. (*Sec. 49-2902 TCA*)

SERVICES

" 'Special education services' means classroom, home, hospital, instructional and administrative services needed to meet the needs of handicapped children; transportation of such handicapped children who are unable to use public transportation; corrective and supporting services including diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, braillist, typists and readers for the blind, specified materials and equipment and other such services as approved by the division of education for the handicapped and authorized by the state board of education; and other services that may be approved by the state board of education to assist handicapped children in taking advantage of or responding to educational programs and opportunities." (*Sec. 3B, Chap. 839, 1972*)

In the division for the education of the handicapped a special education materials and training unit must be established to assist in the education of handicapped persons. The unit in addition to any other functions may:

1. develop, test, demonstrate, maintain, purchase, or otherwise acquire, store, and produce, if not reasonably obtainable from commercial sources, and make available equipment, materials, and special supplies and devices particularly useful in connection with the education of handicapped persons;
2. study, develop, and disseminate information concerning techniques for teaching handicapped persons;
3. collect, evaluate, and disseminate research data and any other information related to special equipment, materials, supplies, devices, techniques, and training;
4. provide instruction in the operation or use of equipment, materials, supplies, and devices;
5. provide inservice training for teachers of handicapped persons and other persons requiring special skills or understanding regarding the education of handicapped persons; and
6. accept, administer, and utilize federal aid and any other grants, gifts, donations or funds, equipment, materials, supplies, facilities, and services. (*Sec. 6B, Chap. 839, 1972*)

The unit may also furnish, lend, or otherwise make available its equipment, materials, supplies, and devices to:

1. public school systems, private nonprofit schools, special schools and institutions for handicapped children, and public and private nonprofit institutions of higher learning;
2. public and private nonprofit institutions and organizations operating recognized programs of vocational rehabilitation;
3. preschool public and private nonprofit programs for education of handicapped children; and
4. handicapped persons on an individual basis if the unit has an established loan service.

The unit makes equipment and materials available only by written applications made in a prescribed form and manner. The application must be approved and materials furnished only if the unit is satisfied that the applicant has a need for them and is capable of putting them to an appropriate use. The application shall contain information concerning the number of handicapped children for whom the applicant is providing instruction or in the case of a new institution or program the number expected to be served, the type or types of handicaps, and any other required information. (*Sec. 6C, Chap. 839, 1972*)

Unless otherwise noted, the unit will provide materials only to schools and school systems, institutions, organizations, and persons within Tennessee. Because of the specialized character and function of the unit, its support and utilization on a multistate or regional basis may promote efficiency and economy and may make it possible for more persons in need of special education to receive it. It is therefore state policy to encourage multistate and regional cooperation. The state department may contract with other states or appropriate educational agencies to furnish services, equipment, materials, supplies, or devices by the unit. The contracts may provide for the carrying out of any one or more of the unit's functions. Unless the activities covered by the contract are financed entirely by the other state or states including the maintenance of a separate staff or the pro rata contributions to the salaries and other compensations of staff, no school or school system, institution, organization, or person may be furnished with equipment, materials, supplies, devices, or training who would be ineligible recipients under Tennessee laws. Contracts must provide for: 1) their duration; 2) appropriate consideration and payment; 3) the nature and extent of the equipment, materials, supplies, devices, and training to be furnished and received; 4) the performance of inspections and examinations and the making of reports, the evaluation of these reports, and the granting or denial of benefits on the basis of these reports; and 5) any other necessary and appropriate matters. (*Sec. 6D, Chap. 839, 1972*)

Payments provided by any contract with the state department must be sufficient to cover the costs of any equipment, materials, supplies, devices, and an equitable share of the operating costs in connection with any inservice training given to persons from other states. Contracts may be entered into only if the use made or to be made of the unit by another state is in excess of 10% of the use made by this state in schools and school systems, institutions, organizations, or persons in this state. Required payment from another state must include an equitable contribution for overhead and capital costs as well as operating costs, the cost of equipment, materials, supplies and devices. (*Sec. 6D, Chap. 839, 1972*)

The commissioner or his representative may contract for supplies, equipment, materials, devices, and personnel training useful in teaching handicapped children. The commissioner may pay costs out of available funds. If another state, public agency, or private nonprofit agency establishes and maintains a substantial specialized program for the development, production, and procurement and distribution of special equipment, materials, devices and supplies, or for the training of personnel useful in the teaching of handicapped children, and if the contract or contracts entered into by the commissioner assure the state of substantial profits on a continuing basis, consideration paid by the commissioner or his designated representative may be calculated to include overhead and capital costs as well as operational costs and the cost of any articles or services furnished or to be furnished. (*Sec. 6E, Chap. 839, 1972*)

Any articles or services secured by the commissioner under a contract may be made available to any school system, special school, or other person and entity entitled to participate in or receive the benefits from special services for the handicapped. The ultimate apportionment and bearing of costs among the states, subdivisions, and other persons or entities must be in accordance with the law. (*Sec. 6F, Chap. 839, 1972*)

The unit has the authority to inspect the facilities of any applicant to be a recipient of its services. They may inspect any pertinent records to determine facts relative to the administration of this act. The unit and its authorized representatives must have access to the premises and to any pertinent records of the applicant or recipient at all reasonable times. The unit may require reports from any recipient institution or program detailing uses made of equipment, materials, supplies and devices and of the workability or beneficial effects obtained from them. The commissioner, with the approval of the governor, may provide for the consolidation of inspections, examinations of records, and reporting. (*Sec. 7G, Chap. 839, 1972*)

Unless performed by the special education services association, each school district or state institution must establish and maintain a special education resources center to procure, maintain, service, and distribute special education equipment, supplies, and materials to all schools and eligible persons in the district. Special education resources centers may establish and operate or cooperate with others in establishing and operating programs of inservice training similar to those authorized for the state unit. These centers may cooperate and borrow or otherwise obtain from the state unit, regional instructional materials centers, federal and other governmental agencies and appropriate private agencies any equipment, supplies, and materials and distribute and collect these from schools. The division for the education of the handicapped is responsible for promoting the efficient and expert use of special education aids and for developing, revising, and keeping in force regulations and guidelines for the operation of centers and their relationship to schools or other recipients. The state unit shall assist the centers in their program of training, equipment servicing, distribution, and general administration. The state unit should also encourage special education services associations to maintain centers on behalf of their participating districts except in those instances where an individual school district is qualified as a special education services association. (*Sec. 7H, Chap. 839, 1972*)

The department of education has the authority to cooperate with other school authorities in providing special schools and special classes in public elementary and high schools, private schools, hospitals and convalescent institutions, and home and bedside instruction, and transportation to and from school for physically handicapped, visually handicapped, or crippled children. *(Sec. 53-1909 TCA)*

Blind children, who are bound by the compulsory attendance law, have the option of attending regular schools for sighted children, private schools, or having an instructor teach the courses used in the public schools or a course particularly adapted for the child, as approved by the commissioner of instutions or the Tennessee School for the Blind. *(Sec. 49-1731 TCA)*

Training may be provided through the Tennessee School for the Blind to preschool blind children and their parents. The Tennessee School for the Blind, through its superintendent and with the approval of the state board, may provide and coordinate such training throughout the state. The training should be designed to instruct the children in physical and mental preparedness and to qualify them for admission to the school when they reach school age. The training constitutes a continuing program for the benefit of the children and their parents. (*Sec. 49-3026 TCA*)

The institution for residential re-education of emotionally disturbed children is located in Nashville and is called the "Tennessee Re-education Center." (*Sec. 33-1402 TCA*)

There are scholarship funds established for the deaf and the blind to enable them to attend institutions of higher education. The funds are under the administration of the state board of education. (*Sec. 49-3014 and 49-3111 TCA*)

An amount not exceeding $2250, may be appropriated every year for the purpose of providing reader services for blind persons who have graduated from an accredited college or a university and are undertaking post graduate education. Up to $750 per academic year will be allowed to each applicant. If there are more than three eligible applicants, the entire $2250 will be divided equally between the applicants. The state board of education will adopt any rules and regulations to insure equitable distribution of the reader service funds and has the right to apportion funds to applicants desiring to pursue education for less than a full academic year. (*Sec. 49-3027 TCA*)

"The term 'special educational services' shall be interpreted to mean administrative procedures and instructional programs and such measures as may be necessary for the adjustment of exceptional children and for providing their education in the public schools. Special educational services shall also include consultative services to local school systems in areas of special education such as the crippled, hard of hearing, psychologically exceptional, partially seeing, and speech defective as may be provided by the state board of education. Consultative service shall be provided to county, city, and special school district boards of education for locating pre-school age exceptional children and studying their needs." (*Sec. 49-2901 TCA*)

PRIVATE

Local governments and school districts are not relieved of their responsibility to provide free public education to handicapped children by the availability of private schools and services. If such schools and services are utilized it continues to be a public responsibility to assure that handicapped children receive an appropriate quantity and quality of instructional and related services and that all their other rights are protected. (*Sec. 2E, Chap. 839, 1972*)

The state board of education may permit a county, city, or special school district board of education to contract with a suitable private institution or organization located within the same county to provide facilities and services for exceptional children. Such expenditures are considered approved expenditures if the authority of the state commissioner of education, the local superintendent of schools, and all public school officers is as broad in the private institution as in any school in the county, city, or special school district and if the facilities and services of the private institution meet the minimum state board standards. (*Sec. 49-2902 TCA*)

PERSONNEL

The division for the education of the handicapped may make traineeship or fellowship grants to professional personnel desiring to work in programs for the education of handicapped children for either parttime or fulltime study to qualify for professional requirements of the state board. To qualify for a traineeship persons must have earned at least sixty semester hours of college credit and for a fellowship be graduates of a recognized college or university. The trainee and fellowship grants may be in amounts of not more than $2,000 per academic year for traineeships; and not more than $2,500 per academic year for fellowships, with allowance of $750 per year per local dependent. An additional sum annually for each grantee may be allowed to any approved institution of higher education in the state for the actual cost of instruction as certified by the institution. Parttime students and summer session students may be awarded grants on a pro rata basis. The division is responsible for the administration of this program and will maintain related records of each person approved for training.

Working with local school districts, the division shall conduct training programs directed toward meeting the needs of a particular school district and/or assist them. The training programs are to include the experienced special education teacher in well-planned, sequential training programs emphasizing the teacher as an educational diagnostician and a planner utilizing teacher aides to assist the implementation of the program. As much as possible training programs should be "in-house" utilizing qualified local school staff as well as university personnel. The teacher education program should demonstrate a philosophy of a school environment and atmosphere minimizing labeling and emphasizing the child as a part of rather than apart from. The division may contract with any approved institution of higher learning as well as use qualified local school staff to offer courses and provide related training sessions to educate special education personnel to meet the needs of handicapped children. (*Sec. 9C, Chap. 893, 1972*)

Grants may be approved for persons contracted to work for the exceptional children program at state training schools or at various residential facilities for exceptional children throughout the state and/or those individuals planning to work in the exceptional child program in the state and who sign a commitment satisfactory to the state board stating that they will take an appropriate available job within the state upon graduation or completion of their studies. The commitments are binding upon those who sign them and receive scholarship aid, but the state board may waive them in the event of extreme and unforeseen hardship.

Training grants may be given to personnel approved for participation as paraprofessionals in the exceptional child program. Persons receiving grants must meet state board professional and performance standards. The state board is responsible for administering this program working with school boards to meet the needs of a particular school district and/or system. These grants are limited to personnel contracted to work in the exceptional child program or those individuals agreeing to work in the state with exceptional children after completing their training for a period of time specified by the state board. Individuals participating in this program must sign a commitment satisfactory to the state board stating that they will take an appropriate job within the state upon completing their training. This commitment is binding on those who sign them and receive scholarships. The state board may waive them in the event of extreme and unforeseen hardship. (*Sec. 9D, Chap. 893, 1972*)

The state board is authorized to develop a plan with local boards to provide for funding arrangements to support the training of paraprofessional personnel as well as other arrangements necessary to operate the training program. (*Sec. 9D, Chap. 893, 1972*)

Out of available funds, the state may conduct in-service education programs and assist in the training of special education personnel. (*Ch. 439, Public Acts 1971*)

FACILITIES

" 'Special education facility' means a school or any portion thereof, remedial or supplemental facility or any other building or structure or part thereof intended for use in meeting educational, corrective, or related needs of handicapped children." (*Sec. 3D, Chap. 893, 1972*)

Physical specifications of schools, classrooms, and other facilities likely to be used by handicapped children must be related to their special physical, educational, and psychological needs. School districts, special education service associations, agencies of the state and its subdivisions, or any private persons constructing, renovating, or repairing facilities wholly or partially using public funds must plan, design, locate, construct, equip, and maintain these facilities with regard to the special capabilities and requirements of the handicapped children to be accommodated in them whether or not these facilities are expressly intended or likely to be used by handicapped children. (*Sec. 2C, Chap. 893, 1972*)

All school districts constructing, renovating, remodeling, expanding, or modifying school buildings or other structures must plan, design, construct, and equip all buildings in a manner and with such materials that will facilitate its use by all handicapped children who may reasonably be expected to enter and use them for instructional, remedial, or supplementary services. This subsection must be interpreted and administered in light of state policy to educate and provide services for handicapped children in or in close proximity to regular schools as much as possible. No school or school-related construction, renovation, remodeling, expansion, or modification is eligible for state aid unless the state department finds that it conforms with this section. (*Sec. 10A, Chap. 893, 1972*)

Plans and specifications for all special education facilities must be prepared in two parts to include:

1. a statement of the educational and related objectives and functions to be served and the uses to be made of the facility; and
2. the architectural plans and specifications.

The plans must be submitted to the state department for approval. This approval is a prerequisite to awarding any construction contract except for contracts for development of required plans and specifications. No construction may commence or permits be issued prior to state department approval. Approval may be given only if the division for the education of the handicapped determines that the architectural plans and specifications properly implement the stated educational and related objectives and functions and, further, if the state department determines that the architectural plans and specifications provide for design, materials, and equipment appropriate to serve the stated objectives and functions. If the plans and specifications are for a building or other structure not including a special education facility, approval by the division of education for the handicapped shall be limited to a certification that the submitting authorities have other adequate facilities to meet the needs for handicapped children. (*Sec. 10B, Chap. 893, 1972*)

No facility to which this subsection applies shall be accepted by any agency of this state or any school district special education services associations or subdivisions unless it conforms to plans and specifications as approved or as amended. Subsequent to approval of plan and specifications they may be amended by showing that the stated educational and related objectives and functions have been replaced by other suitable objectives and functions, and that the architectural plans and specifications have been modified to conform to the new objectives and functions or that the proposed amendment of architectural plans and specifications will not impair the suitability of the facility for the previously stated objectives. Amendments must be submitted and approved in the same manner as original submissions. Any entity eligible for state aid may qualify only on submission and approval of plans and specifications. (*Sec. 10B, Chap. 893, 1972*)

The rules and regulations of the state board shall include procedures for submission and review of plans and specifications and may include requirements for additional information to be furnished by the school district, special education services association, or entities constructing or proposing to construct special education facilities. The manual is to be incorporated in the rules and regulations issued pursuant to this section and no approval or acceptance of the facility is lawful unless they comply with the standards contained in that manual. (*Sec. 10C, Chap. 893, 1972*)

The manual is developed, amended, and revised with regard to the standards applicable to the construction of special education facilities issued by recognized professional organizations. Public and private builders and operators of special education facilities may consult with the commissioner or his designated agent concerning any related matter to the administration of this section or any special education facility proposed to be constructed or operated by them. But no such consultation and no representation made shall be construed as an approval of plans or specifications. (*Sec. 10C, Chap. 893, 1972*)

A special education fund in the state treasury is established. The state department budget must contain an amount sufficient to establish the fund. Grants will be made from the fund to school districts, special education services associations, and other appropriate entities to:

1. secure technical assistance for planning, design, acquisition, and construction of facilities or equipment; and
2. supplement available but inadequate funds for planning, design, acquisition, or construction of facilities or equipment. (*Sec. 10D, Chap. 893, 1972*)

In applying for grants, a school district, services association, or other entity must demonstrate that it proposes to use the aid for an identified purpose of the state plan or for a purpose selected by the division for education of the handicapped as one currently to receive concentrated efforts at improvement. These grants shall be in addition to regular or special aid otherwise available from the state for educational purposes. (*Sec. 10D, Chap. 893, 1972*)

The state department may apply for, administer, receive, and expend any federal aid for which the state is eligible to administer this act. If the aid is available for a multistate or regional program in which the state participates, the state department may apply for and devote all or a portion of the federal aid to a multistate or regional program. (*Sec. 10E, Chap. 893, 1972*)

TEXAS

RIGHT TO AN EDUCATION

Constitution: "A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the state to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." (*Art. VII, Sec. 1, Tex. Const.*)

Children whose physical or mental condition renders attendance inadvisable in a regular or special class supported by state funds are exempted from the compulsory attendance requirements. The evidence of this condition must be supported by a certificate of a physican specifying the condition and covering the period of attendance. (*TEC Sec. 21.033*)

Policy: "It is the intention of this act to provide for a comprehensive special education program for exceptional children in Texas." (*TEC Sec. 16.11*)

POPULATION

Definitions: " 'Exceptional children' means children between the ages of three and 21, inclusive, with educational handicaps (physical, retarded, emotionally disturbed, and/or children with language and/or learning disabilities) as hereinafter more specifically defined; and children leaving and not attending public school for a time because of pregnancy – which disabilities render regular service in classes in public school inconsistent with their educational needs.

" 'Physically handicapped children' means children of educable minds whose bodily functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

" 'Mentally retarded children' means children whose mental capacity is such that they cannot be adequately educated in regular classes of public schools without the provision of special services.

" 'Emotionally disturbed children' means children whose emotional condition is medically of psychologically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

" 'Language and/or learning disabled children' means children who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, read, write, spell, or to make mathematical calculations, as identified by educational and/or psychological and/or medical diagnosis, that they must be provided special services for educational progress. The term 'language and/or learning disabled children' shall also apply to children diagnosed as having specific developmental dyslexia." (*TEC Sec. 16.16*)

Age of Eligibility: Children are eligible for special education services between ages three and 21. (*TEC Sec. 16.16*)

IDENTIFICATION AND PLACEMENT

Statutes contain no specific provisions for the handicapped in this area.

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for establishing the rules and regulations for special education classes. (*TEC Sec. 16.16*)

Texas state schools for the mentally retarded are under the direction of the department of mental health and mental retardation. (*HB3, 1959 Legislature*)

The Texas state school for the cerebral palsied is under the direction of the University of Texas Medical School at Galveston and is subject to the rules and regulations of the board of regents of the University. (*TEC Sec. 74.051*)

The central education agency has exclusive jurisdiction over the state schools for the deaf and the blind. (*TEC Sec. 11.03 and TEC Sec. 11.06*)

Responsibilities of the Texas coordinating commission for state health and welfare services include:

1. studying diagnostic services, care and training, educational, and rehabilitational programs for the handicapped.
2. studying and determining the need for changes in the laws that apply to the care, education, training, and rehabilitation of the handicapped. (*VACS 4447C*)

PLANNING

Two advisory councils appointed by the governor are presently in operation. They are the advisory councils for language handicapped children and for children with learning disabilities. The council for language handicapped children must file its final report by 1972 and the committee for children with learning disabilities, by 1974. (*TEC Sec. 11.15*)

FINANCE

Under rules, regulations and/or formulas adopted by the state board of education, exceptional children teacher units, in addition to other professional and paraprofessional units, will be alloted to any eligible school district. Exceptional children teacher units for pupils who are severely physically handicapped or mentally retarded will be allocated from a formula different from other types of units. The minimum salary for psychologists and other pupil evaluation specialists used in computing salary allotments will be established by the state commissioner of education. Qualifications and minimum salary levels of paraprofessional personnel for salary allotment purposes will be established by the state commissioner of education. A quantitative basis for the allotment of all special education unit personnel will be established by the state commissioner of education under rules of the state board of education.

Any school district, at its own expense, may employ special education personnel in excess of its state allotment and may supplement the minimum salary allotment by the state. Districts are further authorized, at local expense, to pay for all or part of further or continuing training or education of their special education personnel. Special education unit personnel may be employed and/or utilized on a full-time, part-time, or a consultative basis. Personnel may be alloted by the state commissioner pursuant to cooperative district agreements to serve two or more districts.

Each school district operating an approved program will be allotted a special service allowance. This allotment is determined by the state commissioner and is for pupil evaluation, special seats, books, instructional media, and other supplies required for quality instruction.

Each school operating an approved program will be allotted a transportation allowance for transporting children in special education who are unable to attend the program unless such special transportation is provided. The annual transportation allotment will be $150 per exceptional child receiving such transportation. Allocated transportation funds may be used only for transportation purposes for children enrolled in a program of special education, who are eligible in a program of special education, or who are eligible for such enrollment.

The minimum monthly base pay and increments for teaching experience for an exceptional child or a special service teacher conducting a 9-, 10-, 11-, or 12-month special education program shall be the same as that of a classroom teacher provided in the Foundation Program Act, if the special education teachers have the qualifications required by the state commissioner of education. The annual salary of special education teachers will be the monthly base pay plus increments multiplied by 9, 10, 11, or 12. Minimum monthly base pay in increments for teaching experience for special education counselors and supervisors engaged in 9-, 10-, 11-, or 12-month special education programs approved by the commissioner is the same as that of a counselor or supervisor in the Foundation Program Act if they have approved qualifications. (*TEC Sec. 16.16*)

Professional personnel for the operation and maintenance of special education programs shall include teachers of exceptional children, special education supervisors, special education counselors, special service teachers such as itinerant teachers for the homebound and visiting teachers whose duties may or may not be performed on the campus of any school, psychologists and other pupil evaluation specialists. Paraprofessional personnel include persons engaged as teacher aides, who may or may not hold a teaching certificate. (*TEC Sec. 16.16*)

Deaf or blind persons may receive tuition exemptions at any wholly or partly state supported institution of higher education in the state. (*TEC 11.27*)

Persons who are at least 18 years of age and who have completed a four year course of study in an accredited college, professional or technical school, or an approved teacher training center and who graduate with a degree including 10 semester hours of education with not less than five hours of principles and methods of teaching the type of handicapped child they are being certified to teach, are granted a permanent first class certificate to teach the deaf and blind. (*TEC Sec. 11.03 and 11.06*)

Teachers, with five years of successful teaching experience of any particular type of handicapped children prior to 1935, are granted a permanent first class teacher's certificate entitling them to teach that type of handicapped child or that industrial or special subject in the school for the deaf or school for the blind. (*Tec. Secs. 11.03 and 11.06*)

The state board of mental health and mental retardation may establish and maintain in its own institutions or may approve, as diagnostic centers, facilities run by public and private agencies. A diagnosis from an approved center will be equal to a diagnosis from any of the board's centers. The services of the centers are on an ability-to-pay basis. After completion of the diagnosis the board may, among other things, inform the parents or guardian of a school age child that the child should be placed in a special education class in the public schools. (*VACS 3871B*)

School age persons on furlough from the state institutions for the mentally retarded are eligible for public school education classes if they can profit from the instruction. (*VACS 3871B*)

To provide for the continuance of additional programs for the instruction and training of handicapped persons between the ages of 6 and 21, independent rehabilitation districts are eligible and shall be allotted administrative units, special service personnel, exceptional child teacher units, vocational units, and other special education personnel in the same manner as independent school districts through the foundation program of the central education agency. This became effective for the scholastic year beginning September 1, 1971. The general counsel of the education divisions for policy and procedures of the U.S. Department of Health, Education, and Welfare has ruled that without this amendment independent rehabilitation districts are not free public schools for the purposes of direct allocation of Title I ESEA funds. (*TEC Sec. 11.26*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more school districts may jointly operate special education programs. Any school district may contract, where feasible, with any other school district for all or part of the program under the rules and regulations established by the state commissioner of education. (*VACS 2922-13*)

The state education agency may establish countywide special day schools for deaf children in any county with a population above 300,000. The schools are administered through a centrally located school district in each of the counties. The supervising school district will provide the appropriate physical facilities, buildings, equipment, supplies, materials, and transportation for all eligible children. (*TEC Sec. 11.10*)

SERVICES

"'Special services' required for the instruction of a program for exceptional children means special teaching in the public school curriculum within or without the regular classroom; corrective teaching, such as lip reading, speech correction, sight conservation, corrective health habits; transportation, special seats, books, instructional media and supplies, professional counseling with students and parents, and supervision of professional services and pupil evaluation services that establish teaching techniques for children with language and/or learning disabilities." (*TEC Sec. 16.16*)

A six-member state commission for the deaf is appointed by the governor with the advice and consent of the Senate. Two members must be deaf and all members must be outstanding citizens of Texas. The commission shall appoint a qualified person to serve as executive director. To be qualified to serve in this position a person should preferably be deaf or hard of hearing. The commission is responsible for rendering all services to the deaf except those which are by law the responsibility of the welfare, education or other state agencies. The commission shall also conduct a census of deaf persons and keep a card registry. The commission shall serve as the agency for the collection of information concerning the deaf in a manner related to the dispensing of information to interested persons. (*Chapter 640, Acts of 1971*)

A state program shall be established by the central education agency for the education of deaf adults. The purpose of the program is to provide primary and secondary educational opportunities to adults whose hearing loss is severe enough to prevent use of the spoken method of communication. That is, if his handicap has not interfered with the retainment of the level of educational advancement otherwise potentially feasible. The programs shall operate in the following manner:

1. Criteria and standards for determining the degree of hearing loss which will make a person eligible for education must be developed.
2. Criteria and standards for determining teacher qualifications, curriculum, equipment and classroom facilities which must be provided by the school district to qualify for state aid must also be developed.
3. The agency must publish and distribute the rules under which school districts may apply for or qualify for and receive state assistance.
4. To establish an educational program for deaf adults qualifying for state assistance, a district must comply with the central education agency rules and standards and must have at least ten eligible deaf enrollees.
5. Subject to appropriations from the general fund, the available school fund, the minimum foundation and other available funds the central education agency shall allocate to each qualifying district $250 for each student enrolled per year in the district program for deaf adults. (*TEC Sec. 11.16*)

PRIVATE

Under regulations of the state board, districts may contract with nonprofit, public or private community mental health and/or retardation centers or any other approved nonprofit organization, institution or agency to provide services for exceptional children. (*TEC Sec. 16.16*)

PERSONNEL

Statutes contain no specific provision for the handicapped in this area.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

UTAH

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for the establishment and maintenance of a uniform system of public schools which shall be open to all children of the state, and be free from sectarian control." (*Art. X, Sec. 1, Utah Const.*)

Compulsory Attendance Law: All children between the ages of six and 18 must attend public or regular private school during the established school year unless the child was of such physical or mental condition, as certified by competent physicians, to render attendance inexpedient or impractical. (*UCA 53-24-1*)

Children holding valid exemption certificates issued by a local school superintendent are exempt from attending any school. The certificate exemption ceases to be valid at the end of the school year in which is issued. The child may obtain this certificate of exemption only after an evaluation process conducted by an evaluation team established for that purpose by the district board of education. A certificate may only be issued if the evaluation team determines that the handicapped child is unstable to the extent he constitutes a potential hazard to the safety of himself or to others. A majority of the members of the evaluation team shall not be employees of the school district and must include at least three persons including a division of health evaluation services representative, a qualified person designated by the local superintendent, and a person skilled in the area of the handicap of the child being evaluated. A certificate of exemption is subject to review by a three-member panel appointed by the state director of special education upon the filing of a written protest by a parent or guardian within 30 days after the certificate is issued. (*UCA 53-18-6*)

All parents, guardians, or other persons having control of any deaf or blind child between the ages of six and 18 who is unable to be educated in a public school because of his handicap, must send the child to the school for the deaf, or the school for the blind at least nine months of the year. In cases where it appears to the satisfaction of the board that the child is taught at home by a competent teacher with the same curriculum and for the same length of time as children are required by law to be taught at the state school, the child has already acquired proficiency in the curriculum of the state school, or the child is in a physical or mental condition (certified by a competent physician) that renders such attendance inexpedient or impractical, the child is exempted from the requirements. (*UCA 64-3-20*)

Responsibilities: The state board of education shall provide proper education and training for all handicapped children unless a child has a valid certificate of exemption. (*UCA 53-18-2*)

If it is not possible to provide special education for handicapped children in the public schools of the district, or in conjunction with another district, the board of education of the district shall secure this education and training outside of the public schools or provide for the teaching of handicapped children in their homes. (*UCA 53-18-2*)

POPULATION

Definitions: Handicapped children are those children with "physical or mental handicaps."

Age of Eligibility: Children may receive services from age five to 21. Local districts may provide programs out of their own funds to children below five and above 21. (*UCA 53-18-1*)

IDENTIFICATION AND PLACEMENT

Census: In accordance with the rules of the superintendent, the clerk of the board of education, school enumerators and attendance officers in every district are responsible for securing information and reporting to the state superintendent of public instruction by November 15 of each year and, thereafter as cases arise, regarding every handicapped child within the school district of preschool age, school age and post school age who, because of apparent physical or mental condition, is not being properly educated and trained. As soon thereafter as possible, the child will be examined by a person certified by the district superintendent or the state board as a public school psychologist or psychological examiner. A report will be made to the superintendent concerning the child's special educational and training needs. These children and all persons presently being educated and trained in existing "day care centers for the handicapped" are referred to as handicapped children. (*Sec. 53-18-1*)

Screening: During the first month of each school year, every teacher must test the sight and hearing of all children under their jurisdiction. Parents must be notified of any defects and have explained to them the necessity for medical attention. A licensed physician may be hired by the board of education to perform these tests.

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: The state division of health will provide the diagnostic and evaluation services typically not provided in school districts to determine appropriate methods of assisting handicapped children and preparing them for adequate placement and adjustment. (*UCA 53-18-7*)

ADMINISTRATIVE RESPONSIBILITY

The state superintendent of public instruction will oversee the organization of special programs and any other arrangements for special education and will be responsible for enforcing the provisions of the special education act. (*UCA 53-18-4*)

The state director, appointed by the state board, should be a specially qualified and experienced director responsible for coordinating all state programs for handicapped children of preschool or school age. He shall be responsible for the general supervision of all programs for the handicapped in the various school districts and all public agencies and institutions concerned with the training of the handicapped. The director will encourage and assist in organizing programs for handicapped children under the immediate administration of district boards of education or of existing state educational institutions. The director will work in cooperation with private agencies concerned with the training of handicapped children. (*UCA 53-18-2*)

The state director will submit plans to the state board for establishing and maintaining supervision for the proper education and training for all handicapped children. It shall be the duty of the board of education of all school districts to provide and maintain the funds of the district or jointly maintain with neighboring districts from the funds of each of the school districts an appropriate program of special education instruction and facilities and related services for all handicapped children. The state board will adopt standards and regulations relating to the diagnosis and evaluation of handicapped children, special instruction, classes, services and other appropriate guidelines to be followed by local school districts. (*UCA 53-18-2*)

The Utah School for the Deaf will be under the administration of the state board of education. (*UCA 64-3-4*)

The Utah School for the Blind is also under the state board of education. (*UCA 64-3-9*)

The division of welfare maintains a school department for instruction and training of mentally retarded persons who are of school age and capable of benefiting by school instruction and a custodial department for the care and custody of the mentally retarded beyond school age who are not capable of benefiting. (*UCA 64-8-5*)

PLANNING

An advisory committee appointed by the governor consisting of one representative each from the state board of education, state division of health, state division of welfare, a state institution of higher learning for teacher training, a state senate, and state house, as well as three citizen members of a national or state association interested in the handicapped will study the needs and recommend programs for handicapped children to the state board, state division of health, and state division of welfare. (*UCA Sec. 53-18-8*)

In order to assist the state board of education to become aware of the needs of the visually handicapped and to promote training and rehabilitation programs for visually handicapped adults, to assist the visually handicapped to secure employment, and to further their general welfare, an advisory council to the division of services for visually handicapped is established. The council consists of seven members, at least three of whom are visually handicapped, appointed by the governor with the advice and consent of the Senate. The members will serve without pay or compensation but will be paid actual expenses. Meetings of the council must be held at least quarterly at the office of the state board of education upon the call of the state superintendent of public instruction, the division for the blind, or the chairman of the council. One member of the professional staff of the state board will be assigned to act as secretary of the council and will supply the council with stationery and other necessary supplies. The council will make suggestions and advise the division and the state board. It is the duty of the division and the board to receive and consider the suggestions and advice of the council. Information in detail regarding all services and programs for the visually handicapped must be submitted to the council by the state board. (*Chapter 173, 1971*)

FINANCE

School districts maintaining special classes in public schools or special public schools providing special education for handicapped children shall receive state reimbursement as long as the classes or the special education services are approved by the state board regarding location, membership and size of classes, conditions of admission and discharge of pupils, equipment, courses of study, methods of instruction, and qualifications of personnel. The cost of the education and training of handicapped children below age five and above 21 will be paid from fees and contributions of parents, guardians, or friends of the children served. School districts may receive contributions of money, property, and services. A growth factor of not more than five percent for each fiscal year after 1970 for supporting programs for the education and training of handicapped children was created. (*UCA 53-18-3*)

The state board may upon application by a district board of education by June 1 allow additional distribution units for programs for the handicapped. These include programs conducted by a local school district in the Utah State Training School, Utah State Hospital, and Utah State Industrial School. The state board will limit additional units to not more than 91 over the previous year's actual statewide total and only upon the demonstration of need of programs for children with exceptional physical, or mental handicaps may these be distributed. Units allocated to state institutions may be utilized to finance educational programs during the summer months at the rate of one-third unit for each unit allocated for programs during the regular school year. (*UCA 53-7-21*)

All property, equipment and supplies purchased by public funds administered by the division of welfare and located in existing day care centers for the handicapped become the property of the school district in which the centers were located. The local school board is then responsible for the property, equipment, and supplies. (*UCA 53-18-5*)

SERVICES

All personnel teaching the handicapped will either be certified teachers or have met existing qualifications as instructional assistants, as established by the state board. Persons qualified by the division of welfare for instruction and training in day care centers for the handicapped are given five years (from 1969) in order to qualify under state board of education regulations. (*UCA 15-18-2*)

PRIVATE

Districts may contract with private schools to provide services to handicapped children. (*UCA 53-18-2*)

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

VERMONT

RIGHT TO AN EDUCATION

Constitution: ". . . . a competent number of schools ought to be maintained in each town, for the convenient instruction of youth; and one or more grammar schools to be incorporated and properly supported, in each county or state . . . ." (*Ch. 2, Sec. 64, Vt. Const.*)

Compulsory Attendance Law: All persons having control of a child between the ages of seven and 16 must have the child attend the public schools continuously for the full number of days for which the school is held, unless the child is physically or mentally unable to attend or is otherwise being furnished with an equivalent education. (*VSA 1121*)

If a person having control of the child notifies the district superintendent of schools that the child is physically or mentally unable to attend school, and the superintendent has reason to believe that this is untrue, he shall investigate and request the town health officer or a competent physician to examine the child. If there is a medical inspector in the district in which a child's school is located, the superintendent will request the inspector to examine the child. The officer, physician, or inspector will examine the child and make a report of his condition to the superintendent. The superintendent shall, if the child is found mentally or physically unable to attend school, notify the teacher of the school and the truant officer of the town of the fact. The expense of the examination will be paid from the school funds out of the school district or the town district. (*VSA 1124*)

Policy: "It is hereby declared to be the policy of the state to provide equal educational opportunities for all children in Vermont. The purpose of this chapter is to enable the state department of education to provide the special educational facilities and instruction which are necessary to meet the needs of handicapped children." (*VSA 2941*)

Responsibilities: Within the limits of available funds and personnel the commissioner shall provide for essential early education and special education of handicapped children in designated schools and public programs. He may provide private programs for these children and for the temporarily and permanently homebound or hospitalized who cannot advantageously or safely be educated in regular schools if private institution will best serve their interests. (*VSA 2944*)

POPULATION

Definitions: " 'Handicapped child' means any child inhabitant of the state under 21 years of age, whose education needs cannot be adequately provided for through the usual facilities and services through the public schools, school districts, or state institutions because of physical or mental deviations of such child." (*VSA 2942*)

Age of Eligibility: Children are eligible for special services from birth through age 21.

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: If a parent or guardian of a handicapped child alleges that his child is not receiving the service to which he is entitled or has been improperly classified as a handicapped child and is thus prejudiced in the character and quantity of educational or related services, he may petition the state board for correction of the alleged erroneous action or any other appropriate remedial action. If the state board finds the allegation has merit, it shall issue an order directing the district or the commissioner or both to take necessary action. (*VSA 2944*)

The state board is responsible for adopting rules and regulations to implement this chapter including admission standards, requirements for programs and continued placement of children in these programs. (*VSA 2944*)

Any school district may singly or jointly—by contract—establish a professional team to evaluate handicapped children. The team may consist of a school psychologist, and any other necessary persons with pertinent and professionally qualified skills considered appropriate by the district superintendent. (*VSA 2954*)

Any district either singly or jointly with another district may establish a professional team to diagnose and educate children of adequate mental ability with a learning disability of a perceptual, conceptual, or coordinative nature or related behavior problems. The team may consist of a school psychologist and any other person with pertinent and professionally qualified skills as the district superintendent considers appropriate. (*VSA 2944a*)

ADMINISTRATIVE RESPONSIBILITY

The commissioner of education shall be the "commissioner of education for handicapped children" and will supervise, direct, and manage the program for the education of the handicapped and have charge of their instruction and may accept gifts and other donations to carry out the state special education program of the state. *(VSA 2943)*

The state board of education shall employ a qualified director to direct a division of special education and provide any necessary professional assistance. The director serves as the secretary of the advisory council. See Planning. (*VSA 2946*)

With the advisory council's advice and in accordance with state board policies and regulations the director shall execute the policies and regulations and recommend to the board standards and provisions for approving special schools, facilities, and equipment for certifying teachers. (*VSA 2947*)

The educational programs in the state schools for the emotionally disturbed and the mentally retarded are administered by the department of mental health.

PLANNING

An advisory council consisting of the commissioner, the director of special education, and other representatives from the department and agencies dealing with children having special problems, and parents of these children. The commissioner shall determine the size of the council and the period of service for members. He shall also serve as chairman of the council. The council must meet at least annually at the call of the chairman and any other times at his call. (*VSA 2945*)

The council may recommend general state policy for special education and will work to insure a cooperative special education program coordinating all available services. The council shall cooperate with private agencies soliciting their advice in establishing special education program policy. (*VSA 2947*)

Every two years the commissioner shall report to the general assembly regarding the education of handicapped children. The report must include a current census by school district, the extent to which the needs of handicapped children are being met, recommendations to fulfill the unmet needs of handicapped children, and an account of expenditures for special education.

FINANCE

For state aid purposes handicapped children will be counted in the same manner as non-handicapped children. (*VSA 2948*)

The commissioner, subject to the provisions of VSA 2944(c) may award a school district in addition to the state aid described above insofar as the cost of special education exceeds the average per pupil expenditure of the school district, a supplemental grant of 75 percent of the actual salaries and wages of special education personnel. No claims exceeding the school district's actual cost will be paid. If two or more districts employ special education personnel and there is no valid contract or agreement making one of the districts the claimant for all of the aid, each district is entitled to claim a proportionate share according to its actual assumption of salaries and wages of personnel. The commissioner will provide for the apportionment of funds in these cases.

The costs of "essential early education" provided by a school district or child care agency and approved by the commissioner will be paid by the commissioner for the reasonable costs of actual salaries and wages of teaching personnel for the initial three years of a newly established program. After the three year period the commissioner will pay 75 percent of the actual costs of salaries and wages of teaching personnel.

A district providing either a total or partial special education program for a nonresident handicapped child shall claim from the school district of residence the actual costs not covered under state aid received under this chapter.

Districts providing services to handicapped children who are wards of a state agency will claim from the appropriate agency the costs of special education above that reimbursed by state special education aid.

If a handicapped child is receiving education or special education in a school operated by a state agency, the agency shall be the school district of residence for the child. All conditions of this chapter applying to school districts shall apply to the agency. The department of education is excluded from this provision. (*VSA 2948*)

When a program is provided by the commissioner costs will initially be paid by the state board but the district of residence shall reimburse that state for all expenses not exceeding the average per pupil cost in the district for the preceding school year. For children receiving less than a full year of special education, the reimbursement is the average per pupil cost divided by the number of weeks in the school year and multiplies by the number of weeks during which the child was receiving special education. The amount due that state may be withheld from the state aid due the district in December. The expenses of a child who is a ward of a state agency will be paid by the agency not exceeding average per pupil cost for the preceding school year. (*VSA 2944*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If a handicapped child is not receiving the educational opportunities to which this law entitles him the local superintendent shall request the superintendent to provide educational opportunities provided under this law. Upon acceptance by the commissioner the commissioner shall pay the expenses but the local district shall reimburse the state for all expenses but not exceeding the average per pupil cost in the district for the immediately preceding school year. (*VSA 2944*)

With attorney general approval, the state board may enter into reciprocal agreements with boards of education in other states to share expenses in securing services of specialists or other persons skilled in the education of handicapped children. (*VSA 2949*)

See Finance.

SERVICES

" 'Special education,' [is] the provision of facilities, instruction, supervision, and other educational services needed by and not otherwise provided for such children in the public schools and state institutions."

" 'Essential early education,' [is] the education of handicapped children prior to legal school age for the early acquisition of fundamental skills." (*VSA 2942*)

Through a separate appropriation, the department shall diagnose and educate children with adequate mental ability who have learning disabilities of a perceptual, conceptual, or coordinative nature or related behavioral problems. (*VSA 2953*)

Necessary transportation costs for attendance at special day or residential centers up to $100.00 per child per school year will be reimbursed. (*VSA 2951*)

PRIVATE

The commissioner may obtain services for handicapped children in private facilities. (*VSA 2944*)

PERSONNEL

The commissioner with the board's advice may make grants to qualified individuals for part–or full–time study in programs to qualify them as special education personnel. (*VSA 2944*)

FACILITIES

To provide classroom space for handicapped pupils union school districts, town districts, incorporated districts or districts in joint contract or specified unions in joint contract when designated by the commissioner are eligible for state aid for construction, alteration, or addition of classroom space from appropriated funds under section 3447-3456 of Title 16.

If the state board finds evidence of the need for such construction and the project meets their criteria as to type, kind, quality, size, use, and location and the estimate cost is suitable for the proposed curriculum and will most effectively serve the largest number of handicapped pupils, the board may award 75 percent of the cost for the construction, alteration, or addition.

If at any time the need for using these classrooms for special education purposes ceases, the state board may grant permission to the district for other use. (*VSA 3457*)

Any school owned and operated by a town, incorporated or union high school district, or by a nonprofit corporation organized under state law for educational purposes, designated by the commissioner to provide instruction for retarded children is eligible for state aid for contstruction, additions, or alterations to buildings from funds under Title 16, Chapter 123, Section 3447-3456. (*VSA 3457*)

If the state board finds that there is an urgent need for the proposed building, addition, or alteration and the proposed types, kind, quality, size and estimated costs are suitable for the proposed curriculum and will serve the greatest number of retarded children, it may award up to 30 percent of the cost. To qualify for such aid, the state board shall require the district or corporation to enter into a contract with the state under required terms and conditions, which may include provisions for reversion. (*VSA 3457*)

VIRGINIA

RIGHT TO AN EDUCATION

Constitution: "The general assembly shall establish and maintain an efficient system of public free schools throughout the state." (*Art. XIII, Sec. 129, Va. Const.*)

Compulsory Attendance Law: Every parent, guardian, or other person having control or charge of any child between the ages of six and 17 shall send the child or children to a public school, or private, denominational, or parochial school or have the child taught in a home by a tutor with qualifications prescribed by the state board as approved by the division superintendent. Children will attend the school during the period of each year the public schools are in session. (*Sec. 22-275-1 Code of Va.*)

Children physically or mentally incapacitated for school work or those children suffering from contagious or infectious diseases while suffering the disease are exempt from the compulsory attendance provisions. A certificate from a reputable practicing physician made in accordance with the rules and regulations of the state board of education is the determination for physical incapacity or disease, and mental incapacity is determined by mental tests prescribed by the state board of education. (*Sec 22-275.3 Code of Va.*)

Every blind or partially blind and every deaf child between the ages of seven and 16 will attend a school for the blind, school for the deaf, or public school class where special methods, special equipment, and instruction are provided for the blind or deaf for nine months during the school year unless it is shown that the child is elsewhere receiving equivalent instruction or a program of studies approved by the state board of education as usually taught in a public school. No child is exempted from the compulsory attendance requirement unless the superintendent or principal of any school for the blind or some public school or schools for the deaf or persons duly authorized by the superintendent or principals excuse cases of necessary absence among enrolled pupils. The provisions of this section shall not apply to a child whose physical or mental condition would render his instruction impractical. (*Sec. 22-275.5 Code of Va.*)

Responsibilities: The board jointly and in cooperation with each school division has the responsibility for the education of all handicapped children. (*Sec. 22-9.1:02, Code of Va.*)

The board of education must prepare and place in operation a program of special education to educate and train handicapped children between the ages of 2 and 21 and may prepare and place in operation a program for individuals of other ages. When developing the programs, the board shall assist and cooperate with local boards in the several school divisions. (*Sec. 22-9.1, Code of Va.*)

State institutions having children in residence have the responsibility of providing education and training to the children in their custody at least comparable to that which would be provided to such children in the free public school system. The institutions may provide an education and training either directly with their own facilities and personnel in cooperation with the board or under contract with a school district or any other public or private nonsectarian school, agency, or institution. (*Sec. 22-91:4, Code of Va.*)

The Virginia commission for the visually handicapped shall prepare and place in operation a program of special education services to meet the educational needs of visually impaired children between the ages of 2 and 21 and may prepare and place in operation programs for any individuals of other ages. In developing the program, the commission must cooperate with local school boards. When visually impaired children are enrolled in a county or city school division, the local school authorities cooperating with the commission shall establish and maintain special programs for their education in the public schools. All such programs are operated jointly by the local board and commission. (*Sec. 22.9, Code of Va.*)

POPULATION

Definitions: " 'Handicapped children' includes those who are mentally retarded, physically handicapped, emotionally disturbed, learning disabled, speech impaired, hearing impaired, multiply handicapped or otherwise handicapped as defined by the board of education." (*Sec. 22-9.1:1, Code of Va.*)

" 'A visually impaired child' shall mean a child whose vision after best correction limits his ability to profit from a normal or unmodified educational setting." (*Sec. 22.9, Code of Va.*)

Age of Eligibility: Handicapped children may receive services from age two to 21. (*Sec. 22-9.1 and 22-9.1:I Code of Va.*)

IDENTIFICATION AND PLACEMENT

Census: The department of health shall report to the department of education or any local school district the identity of and any pertinent information about children with health problems or handicaps which would affect their school career and need for special education. This law does not prohibit any licensed physician from communicating the identity of any person under age 21 having a physical or mental handicap to appropriate agencies or any of its political subdivisions and other information regarding the person and condition which may be helpful to the agency to plan or conduct services for handicapped persons. (*Sec. 32-11.1 and 54.276.11, Code of Va.*)

Every 3 years a census of all persons between the ages of 6 and 20 will be taken by the superintendent of public instruction. Persons of school age in orphanages and elementary institutions or living in any federal military or naval reservation or other federal property are included for the county or city within which the property is located. Persons of school age confined in "insane asylums," state or federal industrial schools, or prisons are included in the county or city that is the legal residence of the parent or guardians of the child or children. (*Sec. 22-223 Code of Va.*)

Concurrently with this census, a separate census will be taken of deaf and blind persons between the ages of seven and 20 residing within the county or city and giving the sex, age, and residence of all children. A copy will be returned to the division superintendent. The division superintendent will consolidate the reports and transmit them to the superintendents of the schools for the deaf and the blind. (*Sec. 22-228 Code of Va.*)

Screening: Governing bodies of all school districts may provide health and visual examinations to school children including those in special facilities for handicapped children. They may employ school nurses, physicians, therapists, and speech therapists for special classes for handicapped children. (*Sec. 22-241 Code of Va.*)

Principals or teachers in school districts whose governing board has ordered it shall annually test the sight and hearing of all pupils under their charge keeping a record of the examination. If a child is found to have any defect of vision or hearing or disease of the eyes or ears, the principal or teacher shall notify the parent or guardian in writing. Copies of the report will be retained for the use of the superintendent of public instruction. (*Sec 22-248 Code of Va.*)

Prior to entrance in a public kindergarten or any public school program, all children must have a comprehensive physical examination according to standards of the state department of health. The examination must be conducted by a qualified, licensed physician who will report the conclusions and summarize any abnormal physical findings and/or any conditions that would identify the child as handicapped. A copy must be presented to the school on the child's behalf and placed in his health record folder and will be available for review by any employee or official of the state department of health or any health department at the request of the employee or official. The health department of all counties and cities will conduct these examinations for medically indigent children without charge upon request of a parent or guardian. This section does not apply to any child admitted to a public school before July 1, 1972. (*Sec. 22-220.1 Code of Va.*)

ADMINISTRATIVE RESPONSIBILITY

The board of education shall adopt rules and regulations necessary to secure adequate education for handicapped individuals. When developing this program the board must cooperate with the commission for the visually handicapped. (*Sec. 22-9.1, Code of Va.*)

The state board of education is authorized to prepare an education program for the handicapped. (*Sec. 22-9.1 Code of Va.*)

The Commission for the Visually Handicapped operates programs for the blind and partially blind jointly with the public schools. (*Sec. 22-9 Code of Va.*)

The department of mental hygiene and hospitals administers the institutions for the mentally retarded and emotionally disturbed. If local school boards, provide teachers in these institutions, they will receive 100% reimbursement from the state board.

PLANNING

An overall advisory council on needs of handicapped children and adults consisting of 18 members appointed in the following manner: 2 members from the senate; 3 from the house of delegates; one each from the department of education, department of health, department of mental hygiene, commission for the visually handicapped, Medical College of Virginia, medical college of the University of Virginia, department of welfare and institutions, department of vocational rehabilitation; and five members-at-large appointed by the governor shall continuously study the handicapping problems of children and the various phases of programs for handicapped persons. They will recommend to the agencies represented on the council the council's recommendations. They also shall make and submit to the governor any reports and recommendations he deems necessary. (*Sec. 22-9.3 Code of Va.*)

Each school division must make a comprehensive survey of handicapped children's educational needs within its jurisdiction and prepare and submit to the board by July 1, 1973, a plan for the proper training and education of all handicapped children in accordance with state board rules and regulations. Each division shall thereafter submit an annual report indicating the extent to which the plan has been implemented and a plan for the following year. (*Sec. 22-9.1:03 Code of Va.*)

FINANCE

The board shall supply from funds provided by law assistance to local school divisions approved special education and related services for handicapped children. The board must adopt rules and regulations governing the expenditure of these funds. Nothing in this law shall be construed to impose a restriction or prohibition on the use of any federal, state or local funds made available under any federal, state or local appropriation or grant. (*Secs. 22-9.1:05 and 22-9.1:06, Code of Va.*)

An amount not exceeding one-half of the annual salary of each physical director, physical therapist, occupational therapist, speech therapist or attendant will be paid by the state board to the employing local school authorities. An amount not exceeding one-half the salary of each nurse or physician will be paid by the state board of health to the local school authorities. (*Sec. 22-242 Code of Va.*)

SERVICES

"'Special education' means classroom, home, hospital, institutional or other instruction to meet the needs of handicapped children, transportation and corrective and supporting services required to assist handicapped children in taking advantage of, or responding to, educational programs and opportunities." (*Sec. 22-9.1:01, Code of Va.*)

All children attending special education programs are entitled to transportation to and from class at public expense. If because of physical incapacity or mental retardation the child is unable to use existing transportation facilities or, if facilities are unavailable, the school board may, in lieu thereof, allot funds to assist in paying the cost of the means of transportation. The cost cannot exceed an amount approved by the state board taking into consideration the cost of transporting pupils in the public schools. Forty percent of the cost will be paid by the school district in which the child resides, and 60 percent by the state, subject to available funds. (*Sec. 22-9.2:1 Code of Va.*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Any school district may enter into an agreement with another school district or combination thereof to pay the tuition costs of providing educational programs for hearing impaired children, and the state board of education may reimburse local schools boards up to 60 percent of the tuition in an amount not exceeding the actual cost of educating the children.

The state board may reimburse local district boards in operating a free school special education program for hearing impaired children, ages two to five, 60 percent of the cost from the state funds which shall be appropriated for this purpose. (*Sec. 22-9.1:4 Code of Va.*)

PRIVATE

"'School for the handicapped,' a privately owned and operated school, industrial institution or educational organization, no matter how titled, maintained to conduct classes for the purpose of offering instruction for a consideration, profit or tuition to deaf, blind, mentally retarded, visually, physically or emotionally handicapped or disturbed persons." (*Sec. 22-330-17, Code of Va.*)

By September 1, 1972, the state board was to have prepared rules and regulations not inconsistent for the managing and conducting of all schools defined in this chapter including schools for the handicapped as defined above. These rules and regulations have the force and effect of law until they are revised, amended or rescinded by the board and any of these revisions or amendments will then have the force and effect of law. Before final adoption the board must hold a public hearing in Richmond after proper newspaper notice has been given once a week for two consecutive weeks on a daily Richmond paper. (*Sec. 22-330-19, Code of Va.*)

After July 1, 1973, it will be unlawful for any school for the handicapped to be operated without having applied for and having been issued a certificate of approval by the board. Any school is qualified to receive such a certificate when it has complied with the standards and rules and regulations of the board, has paid the fee prescribed for the certificate, has been inspected by the state department of education, and has filed a report with the Board. Certificates are not transferable and must be prominently displayed on the premise of the school in a place open for inspection by any interested persons during regular school hours. (*Sec. 22-330.21, Code of Va.*)

By January 31, 1973, any agent or solicitor representing any school for the handicapped, whether the school is located in the state or outside the state, must apply for a permit to the board in writing upon prescribed forms. Each application shall state the name of the school which the applicant will represent, shall be verified under oath by him and shall be accompanied by the recommendation, of three reputable persons in this state certifying that the applicant is truthful, honest and in good reputation and recommending that a permit as an agent or solicitor be granted to the applicant. The fee for the original permit is $5.00. A separate permit shall be obtained for each school represented by agents representing more than one school. No permit is required of an owner of a school or of any person soliciting students other than that of the admission office of the school. Upon approval of an application for a permit the board will prepare and deliver to each agent a card which will include among other things the name and address and a picture of the agent, the name of the employing school and will certify that the person whose name appears on the card is an authorized agent of the school. The year for which the permit is issued will also be permanently displayed upon the card. Any agent or solicitor wishing to continue annually must renew his permit and pay a renewal fee of $1.00 by January 31st of each year. Permits not renewed on or before the 31st of January will automatically expire. (*Sec. 22-330.33, Code of Va.*)

If any school district does not provide classes for special instruction for the education of handicapped children and if such instruction is unavailable in state schools or institutions and the parent pays to send the child to a private non-sectarian school approved by the state board, the school district will reimburse the parents or guardians of the child for each school year three-fourths the cost of tuition but not exceeding $1,000 per year, when enrolled in a special nonresidential school and three-quarters the cost in a special residential school not exceeding $4,000. The local board will be reimbursed 60 percent from state funds. However, the local board is not required to provide its 40 percent if matching state funds are not available. It is provided further that if the state funds are not available, local school boards shall reimburse the parents for tuition costs in an amount equal to the actual cost of operation per pupil in an average daily attendance in accordance with the limit applied for the disbursement of the basic school aid fund for the school year immediately preceding, and the school board will be entitled to count such pupils in average daily attendance and receive reimbursements from the basic school aid in the same manner as if the child were attending the public schools. (*Sec. 22-0.1:4 Code of Va.*)

PERSONNEL

Teachers of the public schools may be awarded scholarships for education in special education. These awards are made by the state board and the number of awards during any one year depends upon the amount appropriated by the General Assembly. The amount of each scholarship may not exceed the total tuition cost for all costs as relating to special education taken by the applicant during a single semester. Each scholarship may be renewed as many times as necessary until the applicant has completed all courses necessary to qualify as a teacher of special education for the state board standards. Applications for scholarships must be accompanied by a notice of acceptance from an accredited institution of higher education conducting courses in special education. The application is forwarded to the state board through one of the local public school boards within the state for an endorsement. This endorsement must state that the applicant is presently employed by the school board as a teacher, that he possesses the desirable qualities and qualifications as a special education teacher, and that he has demonstrated a desire to serve as a teacher of special education in the public school system. Priorities will be given to those applicants intending to study in state supported colleges and universities. (*Sec. 23-38.11, Code of Va.*)

Before awarding any scholarship, the applicant must sign a written contract in which he agrees to pursue the course of instruction until completion and that promptly thereafter will begin and continuously serve as a special education teacher in the public schools of the commonwealth for a period of years equal to the number of years under which he was a beneficiary of the scholarship period.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

WASHINGTON

RIGHT TO AN EDUCATION

Constitution: "Provision shall be made for the establishment and maintenance of systems of public schools free from sectarian control which shall be open to all children of said state." (*Art. XXVI, Sec. 4, Wash. Const.*)

Compulsory Attendance Laws: All children between the ages of eight and 15, and any child between 15 and 16 years of age not regularly and lawfully engaged in a useful and remunerative occupation must attend the public schools or a private school of the district in which he resides during the school year. The superintendent of the schools of the district in which the child resides, if there is a superintendent, and in all other cases the county superintendent, may excuse the child from attendance because the child is physically or mentally unable to attend school. (*RCW 28.27.010*)

It is the duty of the parents or guardians of all blind or deaf children to send them to the proper institution. The county superintendent may take all necessary action to enforce this provision. If it is evident that the child is being adequately educated at home or in some suitable institution other than the state schools, the superintendent takes no action other than to make a record of the fact and take any steps necessary to satisfy himself that the child will continue to receive a proper education. (*RCW 72.40.080*)

Policy: "It is the purpose of this 1971 amendatory act to ensure that all handicapped children as defined in Section 2 of this 1971 amendatory act shall have the opportunity for an appropriate education at public expense guaranteed to them by the constitution of this state." (*Ch. 66 Laws 1971, 1st Ex. Session*)

Responsibilities: The superintendent of public instruction shall require that all school districts in the state ensure appropriate educational opportunities for all handicapped children of common school age. An appropriate education is defined as "an education directed in the needs, abilities, and limitations of handicapped children." (*RCW 28A.13.010*)

In order to comply with the provisions of this act, the board of directors of each school district shall cooperate with the superintendent and the administrative officer of the division for handicapped children, and shall provide an appropriate educational opportunity, and give any other necessary and appropriate aid and special attention to handicapped children in regular or special facilities. (*RCW 28A.13.030*)

If a handicapped child has been denied an opportunity for an educational program by a local district superintendent "or for any other reason there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardian of such a child within 10 days of such decision that: 1) No agency or other school district with whom the district may contract under Section 4 of this amendatory act can accommodate such child, and 2) such child will not benefit from an alternative educational opportunity, as permitted under section 5 of this 1971 amendatory act. There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by him and in accordance with Section 9 of this 1971 amendatory act." (*Ch. 66, Laws 1971, 1st Ex. Session*)

This act takes effect July 1, 1973. (*Ch. 66, Laws 1971, 1st Ex. Sess.*)

POPULATION

Definitions: "Handicapped children are those children in or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional maladjustment or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, learning problems, and visual and auditory perception and integration." (*RCW 28A.13.010*)

Age of Eligibility: School districts and the state can extend their program for special education aid and training to handicapped children of preschool age. If they do so they will be entitled to regular apportionments from state and county school funds and any allocations from the state excess cost funds available for these special services. (*RCW 28A.13.050*)

The state institutions for the deaf and blind will be free to deaf or blind children between the ages of six and 21. Children under age six otherwise qualified to be admitted to the institution may be admitted if, at the discretion of the superintendent, they are proper subjects for education and training. Students over age 21 may be retained in the institution, if at the discretion of the superintendent and faculty, they are proper subjects to receive further training given at the institutions. (*RCW 72.40.040*)

IDENTIFICATION AND PLACEMENT

Census: The director of the department of health, through the state registrar of vital statistics, will establish and maintain a registry for handicapped children. (*RCW 70.58.310*)

If the attending physician discovers that a newborn child has a congenital defect or a physician discovers upon treating a child under age 14 that the child has a partial or complete disability or condition leading to such a disability, he will report the fact to the local registrar of vital statistics on a form provided by the director of health. No report will be required if the disabling condition has been previously reported or the condition is not one required to be reported to the director of health. The congenital defects will be reported at the same time as the birth certificate is required to be filed. (*RCW 70.58.320*)

The director of health and any local health officer are authorized to cooperate with and promote the aid of any health nurse in public welfare or other private groups or organizations and with any state agency or political subdivision, to furnish the statistical data necessary to compile a registry for handicapped children. The director or any local health officer may accept contributions of gifts in cash or otherwise from any person, group, or governmental agency to establish a registry for handicapped children. (*RCW 70.58.340*)

Clerks of all school districts, when making annual reports, will report to the superintendent of schools in their respective counties the names of all deaf, mute, or blind youth residing within their districts who are between the ages of six and 21 years. (*RCW 72.40.060*)

The superintendent of the county will then report to the county commissioners concerning such children and send a copy of the report to the county school for the blind or the school for the deaf, as the case may be. (*RCW 72.40.070*)

Screening: Tests will be administered each year by teachers, health officials, medical directors, or other competent persons. Tests may be administered by the superintendent, principals, or teachers of the schools. Districts of more than 25,000 children may conduct testing every two years. (*Sec. 28.31.030 RCW*)

Through rules and regulations the superintendent will establish, for the purpose of excess cost funding, functional definitions of the various types of handicapping conditions, and the eligibility criteria of programs for the handicapped. (*RCW 28A.13.010*)

Within the office of the superintendent of public instruction there is established a division of special education for handicapped children known as "the division for handicapped children." (*RCW 28A.13.010*)

An administrative officer of the division for handicapped children will be appointed by the superintendent. Under the direction of the superintendent, the administrative officer shall coordinate and supervise the special education program in all school districts of the state. He will cooperate with intermediate school districts, superintendents and local school district superintendents, and any other interested school officials, to make sure that all school districts provide appropriate educational opportunities for all handicapped children. He will further cooperate with the state secretary of social and health services and with county and regional offices on cases needing medical examinations or other attention. (*RCW 28A.13.020*)

Through the division of special education, the superintendent of public instruction has the duty and authority to: 1. assist school districts to form total school programs to meet needs of handicapped children; 2. develop interdistrict cooperation programs; 3. provide information, upon request, as to programs for the handicapped within the state to parents or guardians; 4. upon request, assist parents or guardian of any handicapped child in the placement of a child who is eligible for but not receiving special education aid; 5. approve school district and agency programs eligible for special excess cost financial aid to handicapped children; 6. upon appeal by a parent or guardian of a handicapped child not receiving an educational program, adjudge whether the decision of the local school district superintendent to exclude the child was justified. If the superintendent decides otherwise he will apply sanctions including withholding any portion of the state aid to the district until compliance is assured, and 7. establish necessary rules and regulations to implement educational opportunities for all handicapped children who are not institutionalized. (*Ch. 66, Laws 1971, 1st Ex. Session*)

The superintendents of the individual residential schools for the mentally retarded are responsible for overall supervision of the program but in establishing educational programs at the institutions they will be assisted by the department of public instruction in all feasible ways (including financial) so that educational programs maintained within the institutions will be comparable to programs for children with similar aptitudes in local school districts. If requested by local districts and if resources are available, the superintendents of the individual residential schools for the mentally retarded may provide clinical counselling and evaluation services to assist local districts lacking the professional resources to determine the needs of exceptional children. (*RCW 72.33.050*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

At each regular session of the legislature, the superintendent of public instruction shall submit a programmed budget request for programs for the handicapped. Local school districts operating programs will receive reimbursement on an excess cost basis from legislative appropriations and will take into account funds received from the state through RCW 28A.41.130, RCW 28A.41.130, RCW 28A.41.140, and any other state and local funds. (*Ch. 66, Laws 1971, 1st Ex. Session*)

In order to equalize educational opportunity, the superintendent of public instruction will establish, every two years, a weighted schedule of costs for educational programs subject to the action of the legislature. Among the areas included in the weighted costs are costs incurred and appropriated to operate an approved program for handicapped children. (*RCW 28.41.140*)

Any district providing services to children at home or in other approved places for those children unable to attend school, is granted the regular apportionment of state and county school funds and any allocations available from the state excess funds for these special services. If a handicapped child attends the special education program operated by a school district other than his district of residence, the regular apportionment is granted to the receiving school district, and the receiving school district is reimbursed by the district in which the child resides for the entire approved excess cost not reimbursed by the regular apportionment in accordance with the rules and regulations of the superintendent. (*RCW 28A.13.040*)

The cost of room and board in facilities approved by the department of social health services is provided by that department for those handicapped children eligible for aid under the programs of the department. The cost of approved room and board for those children not eligible but in need of this service, shall be provided, but no school district is financially responsible for special aid programs for students attending residential schools operated by the department of social and health services. However, no provisions of the act shall "preclude the extension by the superintendent of public instruction of special educational opportunities to handicapped children and residential schools approved by the department of social and health services." (*RCW 28A.13.030*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

In order to provide appropriate educational opportunities for handicapped children, the board of directors of each school district may contract for special education services with other agencies or shall participate in an intermediate arrangement. (*RCW 28A.13.030*)

Boards of directors of the school districts are authorized to contract with agencies approved by the state board in order to provide services for all handicapped children. Approval standards for these agencies shall substantially conform to the standards for special education programs of the common schools. (*Ch. 66, Laws, 1971, 1st Ex. Session*)

SERVICES

School districts, either separately or jointly with the approval of the superintendent, have the authority to:

1. establish, operate, support, and/or contract for residential schools and/or homes approved by the department of social and health services, and
2. give aid and special attention to handicapped children. With the approval of the administrative officer of the division for handicapped children, school districts may pay for the operation of these residential schools out of their general fund budget. (RCW 28A.13.030)

Children unable to attend school but eligible for special excess costs aid and programs for the handicapped shall be given special education services at home or any other place determined by the board of directors of school districts in which the child resides. (*Sec. RCW 28A.13.040*)

Transportation or other arrangements may be authorized. No district is required to transport any handicapped child living within two miles of the school the child is attending. All handicapped children who are not ambulatory or capable of protecting their own welfare, while traveling to and from school or the agency providing the special educational services, are provided with transportation at school district or districts' expense. (*RCW 28A.24.100*)

No child may be removed from the jurisdiction of the juvenile court for training or education under the special education law without the approval of the superior court of the county. (*RCW 28A.13.010*)

School districts may lease school buses to nonprofit organizations to transport handicapped children to and from the site of beneficial activities. If commercial bus transportation is not reasonably available for these purposes, leases may be authorized by the special education directors of school districts, if they do not conflict with regular school purposes. Special education directors may establish the criteria for the bus use and lease including minimum cost and driver requirements. (*Ch. 78, Laws 1971, 1st Ex. Session*)

All boards of directors of school districts, in addition to providing free instruction and speech reading for hearing handicapped children, shall make arrangements for similar instruction to learning handicapped adults if, in their judgement, this instruction is in the best interests of the school district and the adults concerned. (*Sec. 28A.58.107 RCW*)

Blind students, eligible for admission to an institution of higher learning within the state and who are unable to finance this education, may be allocated funds not exceeding $200 per quarter, or as much as may be necessary (in the opinion of the state board) to provide books, readers, recordings, recorders, or other means of reproducing and imparting ideas. If the institution notifies the state board that it will waive tuition and laboratory fees for such a blind student, the allocation will be made out of monies in the general fund not otherwise appropriated. No blind student shall be charged any tuition or laboratory fees while attending any state institution. (*RCW 28.76.120 to 28.76.140*)

A children's center for research and training in mental retardation is established at the University of Washington under the administration of the board of regents of the University and a non-salaried advisory committee. The committee shall consist of the dean of the school of medicine, the directors of the state departments of health, institutions, and public assistance, the superintendent of public instruction, the assistant superintendent in charge of the state division of vocation rehabilitation, and three other members approved by the president of the University of Washington. (*RCW 28.77.430 and 28.77.432*)

The center has the following objectives: (1) provision of clinical and laboratory facilities for research in the causes, diagnosis, prevention, and treatment of mental retardation and other handicapping conditions in children; (2) development of improved professional and in-service training programs in the various disciplines concerned with handicapped children, and (3) provision of diagnostic and consultative services to various state programs to the extent compatible with the primary research and teaching objectives of the center. (*RCW 28.77.434*)

PRIVATE

See Services. Statutes contain no specific provision for the handicapped in this area.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

WEST VIRGINIA

RIGHT TO AN EDUCATION

Constitution: "The Legislature shall provide, by general law, for a thorough and efficient system of free schools." (*Art. XII, Sec. 1, W.Va. Const.*)

Compulsory Attendance Law: Children may be excused from compulsory attendance requirements if they are physically or mentally incapacitated for school attendance and the performance of school work. In all cases of prolonged absence from school through incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. (*Sec. 1847 WVCA*)

No educationally exceptional child is excused or excluded from attending school without written approval of the county superintendent. (*Sec. 1905 WVCA*)

All persons having control of a mentally normal minor over age six who has impaired vision or hearing to the extent that he cannot benefit by public school instruction are required to send the child to a West Virginia school for the deaf or the blind. The child must attend school for at least 36 weeks each year until he has completed the course of instruction or has been discharged from the school by the superintendent.

Exemptions are granted from this section if the child is receiving instruction from a private tutor, instruction at another approved school, or is physically incapacitated for such work. (*Sec. 18-8-10 WVCA*)

Responsibilities: County boards of education having five or more exceptional children in their jurisdictions shall establish and maintain special education programs in addition to and not limited to special schools. Further, the county boards of education may establish and maintain other educational services for exceptional children as the state superintendent of free schools may approve. (*Sec. 18-20-1 WVCA*)

By the school year 1975-1976, county boards of education must maintain classes for exceptional children. (*Sec. 18-20-1 WVCA*)

Immediate priority for educational services is given to children for whom there are no existing programs. (*Sec. 18-20-1 WVCA*)

POPULATION

Definitions: Exceptional children are defined as those children "who meet the public school age requirements, who differ from the average or normal in physical, mental, or emotional characteristics, or are not capable of benefiting through ordinary classroom instruction, but may be expected to profit from a special education program."

The general types and classifications of exceptional children for whom provisions may be made include: "visually impaired, hearing impaired, physically or orthopedically handicapped, epileptic, mentally retarded, speech handicapped, multiple handicapped, autistic and other mentally ill, intellectually gifted; socially or emotionally maladjusted, including the delinquent; learning disabled, both physical and psychological, and any other areas of exceptionality which are identified and approved by the state superintendent of free schools." *(Sec. 18-20-1 WVCA)*

Age of Eligibility: Services are mandated for persons of school age, i.e. beginning at five with no upper limit. Services may begin at age three.

IDENTIFICATION AND PLACEMENT

Census: A statewide school census, to be taken every five years, includes listings of mentally and physically handicapped persons of all ages. The school census is taken by teachers under the direction of the county superintendent. In order that the census records may be as accurate and current as possible, each county superintendent shall establish and administer through the office of the county director of school attendance, a system of cumulative census records as prescribed by the state superintendent of schools. (*Sec. 1814 WVCA*)

Special Education Evaluation: Prior to placement in any special education program, each child must be examined by appropriate medical or psychological specialists who report to the county superintendent of schools. The specialist's report must carry a recommendation for eligibility and placement in a regular school or in a special education facility. The report must also indicate the nature and extent of the child's disability and recommend any treatment and/or prothesis necessary for alleviating it. (*Sec. 1905 WVCA*)

ADMINISTRATIVE RESPONSIBILITY

The state superintendent may organize a division for special education. If he does so, the division (not the state superintendent) is the agency charged with the following responsibilities:

1. stimulating and assisting county boards of education in establishing special education programs;
2. cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating, and rehabilitating exceptional children and coordinating services with such agencies;
3. preparing necessary rules, regulations, and formulae for distribution of funds;
4. defining minimum standards for providing suitable educational facilities for exceptional children, and insuring employment, certification, and approval of qualified teachers and therapists subject to regulations of the state board, and
5. receiving applications, reports, and claims for reimbursement from county boards and auditing the claims and preparing reimbursement vouchers. (*Sec. 1905 WVCA*)

The schools for the deaf and blind are under the control, supervision, and management of the state board of education. The state board employs the superintendent, principal, teachers, and any other necessary personnel. (*Sec. 18-17-1 WVCA*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

Counties maintaining special education programs and requesting state reimpursement must file with the state superintendent an application for the funds, annual reports, and any other required reports. These reports include the names and ages of enrolled children and a record of their school attendance, diagnostic and disability data necessary to insure eligibility and educability, and evidence of educational progress. The reports must also include listings of all special teachers and therapists together with their salaries and travel expenses incidental to their work, all special equipment purchased together with costs, and an itemization of costs for all special services. The state superintendent sets the distribution formula.

Any county board of education may establish and maintain any special schools, classes, home teaching, or visiting teacher services out of local funds. *(Sec. 1905 WVCA)*

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Counties not providing or maintaining special schools, classes, or home or visiting teacher services may provide for their resident exceptional children by contracting with other counties which maintain programs. The sending county will pay the receiving county the per capita cost of instruction, special equipment, and special services not reimbursed to the receiving county by state funds, plus the cost of transportation, board, and lodging, if necessary. (*Sec. 1905 WVCA*)

SERVICES

Special education programs include, but are not limited to, special schools, classes, and home or visiting teacher services. (*Sec. 18-20-1 WVCA*)

The board of education in each county is responsible for providing suitable education facilities, special equipment, and necessary special services. Special services include provisions and procedures for finding and enumerating all exceptional children, diagnosis by appropriate specialists to certify their needs and eligibility for special education, and recommendations for any necessary treatment and prothesis, special teaching by qualified and specially trained teachers, transportation, lunches, and remedial therapeutic services. Special education teachers are appointed by the county boards as are other public school teachers. Therapists must comply with standards prescribed and approved by the West Virginia medical licensing board. (*Sec. 1905 WVCA*)

If there are less than five exceptional children of any single disability who cannot be brought together in special classes or if for any other reason the children cannot be educated profitably in special classes, counties may provide for their education through home and/or visiting teaching services. (*Sec. 1905 WVCA*)

County boards of education may provide special schools, classes, home teaching, or visiting teacher services for exceptional children between ages three and five. (*Sec. 18-20-1 WVCA*)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

WISCONSIN

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide by law for the establishment of district schools, which shall be nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years; and no sectarian instruction shall be allowed therein." (*Art. I, Sec. 3, Wis. Const.*)

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to compulsory attendance laws of the state. (*Sec. 40.7 WSA*)

Physically handicapped children eligible for attendance at a special class or special school are also subject to the compulsory attendance requirements. (*Sec. 115.79 WSA*)

If it appears, by affidavit to any county judge, that a blind or deaf child between the ages six and 21 is being deprived of a suitable education because of the failure of the person having the care and custody of the child, the judge will order the person to bring the child to him. If the allegations of the affidavit are denied, witnesses will be subpoenaed, and he will hear testimony. If the allegations are admitted or established, the judge may order the child sent to the school for the visually handicapped or for the deaf or to some class or other school for instruction, but the order cannot make a direct charge for the class or school against any county. (*Sec. 115.54 WSA*)

Responsibilities: Upon application by a school board, a board of control of a cooperative educational service agency, or a county handicapped children's education board (with authorization of a county board), the state superintendent may authorize, upon the basis of need and availability of sufficient funds, a school board, board of control, or county handicapped children's education board to establish, maintain, or continue a program of educational services for handicapped children. (*Sec. 115.80 WSA*)

POPULATION

Definitions: " 'Handicapped children' means children who are crippled, cardiac handicapped, visually handicapped, otherwise physically handicapped or mentally handicapped." (*Sec. 115.76 WSA*)

Children eligible for services at the state schools for the deaf and blind are defined as: "(1) 'Blind' includes persons visually handicapped, as determined by competent medical authority with the approval of the state superintendent. (2) 'Deaf' includes persons who because of some pathological or functional cause cannot attain proficiency in speech without special instruction and training." (*Sec. 115.51 WSA*)

Age of Eligibility: Handicapped children may receive special services from birth through age 21.

IDENTIFICATION AND PLACEMENT

Census: School district administrators must obtain information regarding handicapped children from birth to age 21 in their school district. This information shall be annually reported to the state superintendent. The reason for nonattendance of a handicapped child of school age shall be noted in the report. (*Sec. 115.78 WSA*)

Special Education Evaluation: The division for handicapped children will determine standards of eligibility for entrance into special education programs. (*Sec. 115.82 WSA*)

The basis for enrollment of a crippled child into an orthopedic school is his need for special school facilities because of an inability to walk or climb stairs or a need for supervision or treatment provided at these schools. Only children mentally capable of benefiting from the regular academic course or a special education curriculum are admitted to orthopedic schools. (*Sec. 115.82 WSA*)

ADMINISTRATIVE RESPONSIBILITY

The state superintendent is responsible for establishing requirements for the courses; qualifications of teachers, coordinators, social workers, and school psychologists, and the plan for organizing and maintaining special schools, classes, centers, and other services. (*Sec. 115.80 WSA*)

The division for handicapped children is subject to the direction of the state superintendent. The administrator of the division, appointed by the state superintendent, has the status of assistant superintendent. The administrator, under the direction of the state superintendent, is responsible for services for handicapped children under the jurisdiction of the state superintendent and for the school for the deaf and the school for the visually handicapped. The administrator is responsible for appointing qualified personnel to perform the duties of the division and for auditing expenditures for services for handicapped children. He is responsible for the elementary and high school eudcation of physically handicapped children under age 21 and for supervision of special education facilities provided the mentally handicapped through day classes. (*Sec. 115.77 WSA*)

Federal aid for special programs for handicapped children will be given to the division for carrying out plans approved by the federal agencies supervising such aid. (*Sec. 115.77 WSA*)

The department of health and social services is responsible for programs in state institutions for the mentally retarded and emotionally disturbed.

PLANNING

Within the department of public instruction, there is a council on the blind composed of three visually handicapped persons who have a recognized interest in and a demonstrated knowledge of the problems of the visually handicapped. (*Sec. 15-377 WSA*)

FINANCE

Any school board, board of control, or county handicapped children's education board maintaining an educational program for the handicapped must annually report to the state superintendent and, at any other times as he directs, the information he requires.

The report must include the number of children instructed or provided service, their residence, and the period of time each was instructed or otherwise served. Each board will annually submit to the state superintendent an itemized account of all receipts and disbursements for special education. (*Sec. 115.80 WSA*)

If after receipt of the reports from the administering units, the state superintendent is satisfied that the special school, class, center, or other service maintained during the preceding year had been in accordance with law, he shall certify to the department of administration that each receive a sum equal to 70 percent of the amount expended during the preceding year for salaries of the qualified personnel, transportation, board and lodging of resident children, special books and equipment, and other expenses approved by the state superintendent. Board or lodging and transportation between the boarding home and school provided to non-resident handicapped children is reimbursed 100 percent.

The full cost of academic instruction for physically handicapped children in hospitals and convalescent homes for crippled children is paid. If the hospital or convalescent home is located in a city or is a branch of the city located within 10 miles of the city, the school board of the city school district and the superintendent are responsible for supervision of the institutional program. The school board of the district in which the hospital or convalescent home is located submits to the state superintendent an itemized account of all receipts and disbursements for the actual cost of instruction and any other required information.

Up to $10,000 of the appropriation under Sec. 20.650(3) may be used annually to increase the transportation reimbursement school districts receive for physically handicapped children attending regular schools by an amount not exceeding $.90 per day and to increase reimbursements for board and lodging by an amount not exceeding $1.40 to assure educational opportunities to physically handicapped children.

Districts conducting programs in an orthopedic school will be paid the full cost of salary and travel expenses for physical therapists providing services outside the employing school district. Districts will also receive full reimbursement for salaries and traveling expenses of personnel providing instructional services outside the district of residence. (*Sec. 115.85 WSA*)

The state pays the tuition for handicapped children including the mentally retarded, emotionally disturbed, and epileptic who are placed in foster homes while attending the public schools of the state. (*Sec. 121.79 WSA*)

If a handicapped child residing in a district maintaining a special school, class, or center for children with his handicap attends a special school, class, or center in another district, tuition will be charged to his parent or guardian unless the state superintendent and the school district administrator have approved the transfer. If the state superintendent and school district administrator approve the transfer in order to serve the best interest of the child, tuition will be paid by the school district of residence. (*Sec. 115.82 WSA*)

One-half of the cost of home instruction for physically or mentally handicapped children will be paid by the school district of the child's residence if the district initiates the program, or one-half by the county and one-half by the state if the county initiates the program. The maximum state payment may not exceed $300 per school year. Children requiring instruction under this section are considered as being in attendance in the school district of their enrollment. (*Sec. 115.84 WSA*)

Non-resident children admitted into a program conducted by a handicapped children's board or an orthopedic school in any school district will be charged tuition. Tuition for a non-resident handicapped child is determined on the basis of costs, state aids, and number of children in each part of the program for the preceding year by adding together the total cost of reported items, the actual cost of operation and maintenance not reported, subtracting federal, state, and county aid and dividing this amount by the number of children in an average daily membership.

In counties having a population of less than 500,000, a handicapped child residing in a school district in the county not maintaining an appropriate special school, class, or center and if the county maintains no appropriate program, the county will be charged tuition when the child attends a special school, class, or center in another school district or county. Before August 1 of each year, the school district clerk and the secretary of the county handicapped children's education board must file with the clerk of the county in which the city, village, or town of residence of a handicapped child is located, a claim for tuition.

The claim must contain the name, age, date of entrance, number of weeks of attendance during the preceding year of each child, the amount of tuition to which the school district or board lays claim for each child, and the total amount of tuition due the school district or board from the county. County clerks shall examine the claims for the purpose of determining their accuracy and legality and may call upon school, county, or local officials to supply data to verify claims.

After examining the claims, the county clerk notifies the school district clerk or secretary of the board of the result of his examination. If corrections are necessary, the county clerk notifies the school district clerk or secretary of the board who meets with the county clerk (at the expense of the school district or board) to make corrections.

The county clerk "shall apportion the amount of claims for each type of handicap, on the basis of the ratio of the equalized valuation of that portion of each municipality within the county that lies outside the territory served by all programs for children with that handicap that are operated by school districts or pursuant to Section 115.81 to the total equalized valuation of all the territory in the county that lies outside the territory served by all programs for children with that handicap operated by school districts or under Section 115.81 and shall certify that amount to clerks of such municipalities."

Each municipal clerk, upon receiving certification from the county clerk, shall then spread the amounts upon the tax roles for collection. When taxes are collected, amounts must be paid by the county treasurer to the treasurer of each school district or handicapped children's education board.

In counties having a population in excess of 500,000, the school district of residence will pay tuition charges for handicapped children as described previously. Before August 1 of each year, the school district "must file with the clerk of the school district of residence of each non-resident child residing in school districts that are wholly or partially in counties having the population of 500,000 or more a sworn statement of claims against the school district of residence." A claim must contain the name, age, date of entrance and number of weeks of attendance during the preceding school year, the amount of tuition to which the school district lays claim, and the total amount of tuition due the school district of attendance from the school district of residence. After verification, the clerk of the school district of residence reimburses the treasurer for the claim of the school district in the same manner as other claims are paid.

Any two or more school districts in counties with a population of 500,000 or more and with written agreement of their school boards, may admit residents of other school districts to any phase of the program for handicapped children and waive all claims for tuition. (*Sec. 117.82 WSA*)

If a physically handicapped child receives services in a school district other than his district of residence, the division is responsible for making or approving arrangements for transportation to and from his home to the special class, or on school days for board, lodging, and transportation to and from his boarding home to his special class. (*Sec. 115.77 WSA*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

County boards may operate programs for handicapped children for all school districts in the county. The program may provide for one or more special schools, classes, treatment or instructional centers, or other services for one or more types of handicapped children. School districts are included in the county program only to the extent approved by formal action of their own school board. If the county board establishes such a program, it then creates a board to be known as the "Handicapped Children's Education Board."

This board, consisting of three or five persons as determined by the county board of education, is elected by the county board or appointed by the chairman, according to the rules of the county board. Members should be elected from the parts of the county participating in the program and be representative of the area the board serves. School board members, county board members, and other electors may serve on the board. Annually, one member is selected as chairman and one member as secretary by the board. The county treasurer serves as board treasurer, although he is not a board member. An advisory committee, composed of school board administrators representative of the area served, will be appointed. The board must apply to the state superintendent to establish programs. Applications must state whether the program will be available in the county at large or only to certain school districts. All matters pertaining to the organization, equipment, operation, and maintenance of programs for the handicapped is the responsibility of the board. The board may do all things necessary to perform its functions without restrictions due to enumeration, including erecting buildings (subject to county board approval) and employing teachers and other personnel. An annual budget, prepared by the board and subject to the approval of the county board, shall include funds for the hiring of staff; purchase of materials, supplies, and equipment, and the operation and maintenance of buildings or classrooms.

The county board may assign, by resolution, the functions of the handicapped children's education board to a cooperative educational services agency operating within the county. However, if the board continues to exist, it has authority to contract with the agency board of control or school board of any district in the county for professional and administrative services.

A school board of any district included on the board may withdraw from participation in any part of the program, with the approval of the state superintendent after he has conferred with the board and is satisifed that the withdrawal is in the interest of the county program and the affected school district. The withdrawal will be effective only if the school board has the approval of the state superintendent to establish a comparable part of the program. The effective date of withdrawal must be at the end of the next full school term. Also, the withdrawing district is liable for its proportionate share of all operating costs until the effective date of its withdrawal and continues to be liable for its share of the debt incurred while it was a participant. Withdrawing districts receive no share of the assets. Any program established under this section may be dissolved by the county board, but dissolution may not take place until the end of the school term in which the action was taken. After dissolution, assets and liabilities are distributed to all units which participated in the program.

A plan for transporting, at county expense, handicapped children participating in a program may be developed by the board after approval by the state superintendent.

The tax for operation and maintenance of each part of the program and transportation will be levied against the area of the county participating in that part of the program. The board is eligible to receive state aid for transportation, board and lodging, treatment, and instruction of handicapped children participating in programs under this section. All state aid will be paid to the county treasurer and credited to the fund of the board. (*Sec. 117.81 WSA*)

Handicapped children residing outside an area served by a handicapped children's education board may be admitted to such a program as a non-resident.

Handicapped children, including preschoolers, residing in a school district, may be admitted to special programs available in any other school district, according to standards of eligibility determined by the division and according to available facilities. (*Sec. 115.82 WSA*)

SERVICES

In maintaining educational services for handicapped children, districts and the handicapped children's education board may employ qualified teachers, fulltime senior coordinators of special education, senior school social workers, and senior school psychologists and may provide special physical and occupational therapy services for handicapped children. The special education program may consist of one or more special schools, classes, treatment or instruction centers, or other services for one or more types of handicapped children and including special classes in instruction centers for mentally handicapped children having an IQ between 35 and 50. A "part of a program" is that portion of a program in which a particular child participates. (*Sec. 115.80 WSA*)

If board and lodging are not furnished to a non-resident handicapped child, the school district in which the child lives must provide transportation. (*Sec. 115.82 WSA*)

School districts operating special programs for handicapped children may provide instruction or treatment for preschool handicapped children and instruction for their parents. The state school for the deaf may provide instruction for preschool deaf children and their parents; and the school for the visually handicapped, for preschool visually handicapped children and their parents. Instruction for preschool children and their parents is subject to the approval of the state superintendent and must comply with his regulations. (*Sec. 115.82 WSA*)

Physically handicapped children unable to attend school, according to medical recommendations, may receive education through home instruction, extension courses, or any other suitable means provided by any school district or county handicapped children's education board on both the elementary and high school levels.

All sanatoria or convalescent homes providing care for children between the ages of five and 18 must provide instruction for those children physically able to receive it. Work satisfactorily completed will be granted credit by school authorities. Teachers regularly employed for home, sanatoria, or convalescent home instruction outside of regular school hours are paid for this work in addition to their regular salary. These teachers must be legally qualified to teach in the state. Before August 1 of each year, every school district or county handicapped children's education board operating programs under this section must report to the division any information it requires regarding teachers and children involved in the programs.

Any school district or county handicapped children's education board may provide home instruction to mentally handicapped children between the ages of four and 20 who, according to educational and psychological evaluation, are able to benefit by academic and non-academic home instruction. Enrollment of children in this type of home instruction must be approved in advance by the state superintendent. Teachers employed for this program must be legally qualified to teach in the state. By August 1 of each year, every school district or county handicapped children's education board operating these programs must report to the state superintendent any information he requires regarding the programs. In no way will the home instruction program for the mentally retarded substitute for special classes for educable or trainable mentally handicapped children. (*Sec. 115.84 WSA*)

Every school board must provide transportation for handicapped children to any elementary or high school or the school for the visually handicapped or the school for the deaf, regardless of the distance, if the request for the transportation is approved by the state superintendent. Approval is based on whether the child can walk to school in safety and comfort. (*Sec. 121.54 WSA*)

The superintendent of schools may apply to the regents of the University of Wisconsin for admission to the Wisconsin General Hospital for any pupil in the state schools. A physician's report must accompany the application. Net cost of the hospital treatment will be at the rate charged the counties for county patients. One-half is chargeable to the appropriation for operating the school and one-half to the state. Payment for transportation to and from the hospital may be authorized. Superintendents should arrange visits by members of the staff to the school, to other public schools, and to families of blind or deaf children whenever it appears to them that these visits would be an advantage to the children. (*Sec. 117.53 WSA*)

Superintendents of the schools for the deaf and blind may arrange for vocational, trade, or academic training for any pupil qualified to take such training in a state school, a public school, vocational school, or a private business establishment in Janesville or Delavan. Public schools and the vocational school are paid their regular tuition rate for full-time attendance and a prorated rate for part-time attendance. (*Sec. 115.53 WSA*)

All blind or deaf residents of this state capable of receiving instruction and who are between the ages of six and 21 shall be sent to the state schools free of charge. Non-resident pupils will receive services at a fixed tuition rate, but no non-resident shall be received to the exclusion of a resident pupil. Pupils over age 21 may be admitted upon payment of fees fixed by the state superintendent and upon the recommendation of the director of public welfare, the director of vocational and adult education, or the superintendent at the school to which the pupil will be assigned. All pupils shall have the use of the library for books of instruction and receive board, lodging, and laundry. The school may provide transportation for resident indigent pupils. (*Sec. 115.52 WSA*)

Deaf-blind children unable to receive instruction in a special class may be provided an education by the state superintendent outside the state or in a special class within the state, if there is a sufficient number of deaf-blind children to warrant the establishment of a class. (*Sec. 115.53 WSA*)

Embossed clear type or large type books, talking book machines, and talking book records acquired by the school for visually handicapped constitute a circulating library for the blind. The library will be kept at the school and is in the charge of the superintendent of the school. Blind citizens may use the books if they comply with the rules of the superintendent of the school and approved by the state superintendent. (*Sec. 115.55 WSA*)

Under the direction of the superintendent of the school for the visually handicapped, any blind person who has been a resident of this state for at least five years and is a student in any university, college, or conservatory of music may receive aid for the purpose of defraying tuition and other expenses including a reader while in attendance. (*Sec. 115.57 WSA*)

Scholarships for blind students attending colleges, universities, or conservatories of music may total $400 in any one year. The total award may not exceed $2,000. (*Sec. 115.56 WSA*)

Aid to attend a college or university to a deaf person may not exceed $500 in any one year. (*Sec. 115.57 WSA*)

Approximately $3,000 should be annually set aside from the appropriations made to the state schools for the deaf and the state school for the blind to help defray the cost of readers for blind or deaf pupils between the ages of 16 and 21 enrolled in public high schools or vocational, technical, and adult education schools in the state. No pupil shall receive aid exceeding $125 per year nor shall it be granted to any student unless the director of the bureau for handicapped children and the superintendent of the school for the visually handicapped or the school for the deaf agree that it is best for the student to attend the vocational or high school. (*Sec. 115.53 WSA*)

The division is responsible for assembling all records on crippled children from birth to 21 years of age and for providing facilities for the diagnosis through orthopedic field clinics and for aftercare for children under age 21 who are crippled or suffering from conditions leading to crippling.

The division's responsibility extends to those facilities not provided through hospitals, private physicians, or through private organizations. The division shall approve applications and arrange for orthopedic hospital care when state aid is granted for any part of the costs.

Services for crippled children must be administered in accordance with the requirements of the federal Social Security Act. A state plan will be submitted by the director of the crippled children's section of the division for services for crippled children. The plan may be revised as conditions require. The division shall report in the required form and will comply with all requirements made to assure correctness and verification of reports. (*Sec. 115.77 WSA*)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

WYOMING

RIGHT TO AN EDUCATION

Constitution: "The right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance science and liberal arts." *(Art. 1, Sec. 23, Wyo. Const.)*

"The legislature shall make such further provisions by taxation or otherwise, that with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools adequate to the proper instruction of all youths of the state, between the ages of 6 and 21 years, free of charge; and, in view of such provisions so made, the legislature shall require that every child of sufficient physical and mental ability shall attend a public school during the period between 6 and 18 years for a time equivalent to three years, unless educated by other means." (*Art. VI, Sec. 9, Wyo. Const.*)

Compulsory Attendance Law: The board of trustees of any school district within the state may deny admission to any child who has such a mental or physical disability that, based on a physician's certificate, the board believes the child could not reasonably benefit from available programs, or the attendance of the child would be inimical to the health, safety, or welfare of other pupils. However, the board shall make the best possible provision for a suitable education for these children in accordance with state laws. (*Sec. 231 Wyo. Stats.*)

Responsibilities: All school districts having any school age handicapped children shall, subject to the rules and regulations of the state board, provide for appropriate education and training as well as necessary related services for such children. The district, which is unable to provide the necessary and appropriate services, shall contract with another school district or agency to obtain them. If programs and services cannot reasonably be provided by the district or by inter-district contracts, the state board is responsible for assisting local boards of trustees to arrange for the appropriate educational programs and services inside or outside of the state, subject to the rules and regulations of the state board. (*Sec. 286 Wyo. Stats.*)

POPULATION

Definitions: "Each and every child of school age in the state of Wyoming having a mental, physical or psychological handicap or social maladjustment which impairs learning, shall be entitled to and shall receive a free and appropriate education in accordance with his capabilities." (*Sec. 284 Wyo. Stats.*)

Age of Eligibility: Children of legal school age (6 to 18) are eligible for special education services.

IDENTIFICATION AND PLACEMENT

Special Education Evaluation: All school districts, subject to the rules and regulations of the state board, are responsible for providing the appropriate diagnosis and evaluation for handicapped children. (*Sec. 286 Wyo. Stats.*)

ADMINISTRATIVE RESPONSIBILITY

The state board, jointly with the boards of trustees of all school districts, is responsible for educating all handicapped children. The state board will adopt rules and regulations to assure that each child receives a free and appropriate education in accordance with his capabilities. (*Sec. 285 Wyo. Stats.*)

The state board of education is responsible for maintaining and operating the state school for the deaf. From funds appropriated for that purpose, the board shall provide adequate staff equipment and supplies for the operation of the school and may accept gifts or grants or aid from any person. (*Sec. 287 and 288 Wyo. Stats.*)

The state board will have the general supervision of the deaf and blind and all other persons with a physical disability which prevents reading in the normal manner. If funds are available, the board may provide or have provided, education and other services necessary to aid these persons help themselves to become and to remain useful citizens of the community. In addition, the board may hire personnel and purchase necessary books, equipment, and supplies. (*Sec. 289 Wyo. Stats.*)

The board of charities and reform is responsible for the general supervision and control of all state schools for the mentally retarded and mentally ill. Deaf and blind children who are not otherwise adequately provided for are also under the jurisdiction of this board. (*Sec. 9-173 Wyo. Stats.*)

PLANNING

Statutes contain no specific provision for the handicapped in this area.

FINANCE

In allotting classroom units for exceptional or handicapped children, the superintendent will allot one full unit, or a proportional fraction thereof, for each 10 pupils identified as educable retarded and for pupils evaluated or diagnosed as having physical, psychological, or social disabilities which impair learning and one full unit, or a proportional fraction thereof, for each eight trainable retarded children. Allotments will only be made if a certified teacher qualified to teach pupils having the specific disabilities listed above is in charge of the unit. These pupils may not be included in any other classroom unit determination. (*Sec. 231 Wyo. Stats.*)

In addition to other public school aid, unified school districts will receive state aid using a formula. The assessed valuation per classroom unit in the district will be subtracted from the state average. The difference will be multiplied by the number of classroom units within the district, by seven mills, and by a sum approved by the state board of education.

School districts also receive reimbursement from the state for a total not exceeding $75 per month per child for transportation and maintenance. A greater minimum may be approved for an isolated elementary or high school child, if it would be more economical to provide transportation than establish a school.

If there are insufficient funds to provide the supplementary aids, the funds will be allotted proportionately to all school districts.

An amount will be included in the foundation program for the education of children having mental, physical, or psychological handicaps or social maladjustment which impairs learning if they attend school in another district or state. The amount included in the foundation program support for children receiving services in their own district will be the amount expended in the previous school year. State reimbursement for children receiving services in a district other than their district of residence will be in the amount expended in the previous school year by the district for tuition and maintenance. No reimbursement will be made duplicating any other category.

Districts are required to make an annual computation of the sum of local resources including 75 percent of the amount of tuition paid to the district during the previous school year, but no district shall include in its annual computation any tuition paid to the district during the previous school year by another district for the education of pupils with mental or physical handicaps. (*Sec. 233 Wyo. Stats.*)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

School districts and community college districts, or any combination of them, may work together and cooperate to provide educational services including, but not limited to vocational, technical education, and adult education and services for exceptional children. Whenever two or more boards of trustees desire to establish a board of cooperative services, the president of each board calls a meeting of all interested boards. At the meeting, if a majority of the members vote in favor, they may enter into an agreement to form a board of cooperative services. This agreement will specify, among other things, the length of term of the agreement, the rights, responsibilities, and obligations of each participating district or community college district, the type of services to be rendered, the procedure for the establishment of additional services, and the procedure for the inclusion of additional districts. The agreement will also provide for the amendment and dissolution of the agreement, but no amendment or dissolution will be effective without the consent of each district. All agreements must be submitted to the state board for approval. At a meeting of all participating boards of trustees, they may elect, by secret ballot, a board of cooperative educational services composed of not less than five and no more than nine members. If there are more than nine districts participating, each participating district or community college district shall have one member. Each participating board of trustees, regardless of its number of members, shall be entitled to cast five votes in the selection of members for the cooperative board. Then each board of trustees, according to the agreement, will have at least one member on the board. The term of office will be concurrent with the terms of office on their individual boards. Officers will be elected. Meetings of the board of cooperative services will be called, held, and conducted, as provided by law for the meeting of boards of trustees of school districts. Costs of facilities, equipment, and services provided under the direction of the board will be financed by the participating school districts and community college districts on the basis agreed upon by the boards. (*Ch. 105, Session Laws of 1969*) See Finance regarding tuition arrangements.

SERVICES

Special services include appropriate diagnosis, evaluation, education or training, and necessary related services. (*Sec. 286, Ch. 15, Session Laws of 1969*)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

Statutes contain no specific provisions for the handicapped in this area.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

DISTRICT OF COLUMBIA

RIGHT TO AN EDUCATION

Compulsory Attendance Law: All children between the ages of seven and 16 are subject to the compulsory education requirements. (*Sec. 31-201 Rev. Stats.*)

The District of Columbia board of education may issue a certificate excusing a child from attendance if the child is found mentally or physically unable to profit from attendance in school, upon examination ordered by the board. If the examination shows that the child may benefit from specialized instruction adapted to his needs, he shall attend if such instruction is available. (*Sec. 31-203 Rev. Stats.*)

POPULATION

Statutes contain no specific provisions for the handicapped in this area.

IDENTIFICATION AND PLACEMENT

Census: The commissioner of education is directed to ascertain the number of blind children and deaf children resident in schools in the District of Columbia over the age six and under age 18. (*Sec. 4864 Rev. Stats.*)

ADMINISTRATIVE RESPONSIBILITY

Special education in the District of Columbia is under the supervision of the board of education. (*Public Law, 254, Organic Law of 1906, Sec. 2*)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

Statutes contain no specific provisions for the handicapped in this area.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Statutes contain no specific provisions for the handicapped in this area.

SERVICES

Statutes contain no specific provisions for the handicapped in this area.

PRIVATE

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FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

PART II: FEDERAL LAWS

FEDERAL LAWS

TITLE VI, ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS OF 1969 (P.L. 91-230)

Part A–General Provisions: Handicapped children are defined as "mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education and related services." (*Sec. 602*)

Children with specific learning disabilities are defined as "those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, or mental retardation, of emotional disturbance, or of environmental disadvantage." (*Sec. 602*)

A bureau for the education and training of the handicapped is established in the U.S. Office of Education, "which shall be the principal agency in the Office of Education for administering and carrying out programs and projects related to the education and training of the handicapped." (*Sec. 603*)

The Commissioner of Education is directed to establish within the U.S. Office of Education a National Advisory Committee on Handicapped Children. The 15-member committee shall review the administration and operation of programs authorized by the Education of the Handicapped Act and other programs within the Office of Education related to handicapped children. At least eight members of the committee shall be involved in the education and training of the handicapped. In addition, the committee makes recommendations for the improvement of programs for handicapped children. Each year the committee shall report its recommendations to the Commissioner. This report shall be routed to the Secretary of the Department of Health, Education, and Welfare, who will transmit the report, including his recommendations, to the Congress. (*Sec. 604*)

The Commissioner of Education is empowered to determine if any program authorized pursuant to this Title will be improved by permitting the funds authorized for such program to be used for the acquisition of necessary equipment and facilities. If, within 20 years after the completion of any construction for which funds under this Title have been paid and the facility ceases to be used for the purposes for which it was constructed, the U.S. government may recover, at current market value, the proportion of its original investment in the construction. (*Sec. 605*)

Part B–Assistance to States for Education of Handicapped Children: This part provides grants to aid states in the initiation, expansion, and improvement of programs at preschool, elementary, and secondary levels. Up to three percent of the amount appropriated each year for payments to the states may be allotted by the Commissioner of Education to the outlying areas and the Bureau of Indian Affairs schools. Allotments to the states are based on the number of children ages three to 21 in the state. A minimum allotment of $200,000 or 0.03 percent of the amount appropriated, whichever is less, is provided as a minimum to each state. (*Sec. 612*)

Each state establishes its own procedure for approval of project applications based upon state and federal regulations. In order to receive funds, each state must submit a state plan. The state plan for each fiscal year must meet the following requirements:

1) Assurance must be given that funds will be expended only for the initiation, expansion, or improvement of programs and projects of sufficient size, scope, and quality to meet the needs of handicapped children. Indication of state involvement in the administration of the projects and procedures for planning at the state and local levels must be given. Planning and administration funds must not exceed five percent of the allotted funds or $100,000, whichever is greater.

2) A proportionate number of children in private elementary and secondary schools must participate in programs.

3) Responsibility for the control of funds must lie with a public agency.

4) Funds under this section should increase or supplement state, local, and private funds rather than replace such funds.

5) Annual evaluations of programs should be conducted to insure that the educational needs of handicapped children are being met.

6) No funds may be used for children eligible for assistance under P.L. 89-313.

7) Dissemination of significant information derived from projects should be provided.

8) All education programs for the handicapped in the state must be properly coordinated by those responsible for special education in the state education agency. (*Sec. 613*)

Part C–Centers and Services to Meet Special Needs of the Handicapped: The Commissioner of Education is authorized to make grants establishing regional resource centers to develop and apply models of appraising the special education needs of handicapped children and to serve as a resource to schools, agencies, and institutions. Centers also develop educational programs to meet the special education needs of the handicapped. Consultative services may be provided and include, when appropriate, consultation with parents or teachers of handicapped children. Periodic re-examination and re-evaluation of special education programs and other technical services are also functions of the centers. (*Sec. 621*)

Provision is made for the establishment of model centers for deaf-blind children. These centers are designed to develop and provide, as early as feasible in life, the specialized, comprehensive, professional, and other services, methods, and aids found to be the most effective with deaf-blind children to enable them to develop to their full potential for adjustment to the world around them. These services may include: 1) diagnostic and evaluative services; 2) programs for adjustment, orientation, and education including all necessary professional services, and 3) consultative services for parents and teachers to enable them to understand and deal with the special problems of deaf-blind children.

Transportation may be provided to non-resident students and to parents needing access to the center

Public or non-profit agencies, organizations, and institutions may apply for contracts to establish such centers. (*Sec. 622*)

The Commissioner of Education is authorized to establish experimental early childhood education programs for the handicapped. Programs approved by the commissioner must show promise of promoting a comprehensive and strengthened approach to the special problems of these children. Programs are to be distributed geographically and between urban and rural areas. Programs offered under this section should be designed to facilitate intellectual, emotional, physical, mental, social, and language development, encourage parent participation, and acquaint the community with the problems and potentialities of young, handicapped children.

Provision must be made for coordination of these programs with any similar activities in the schools of the communities served. The federal payment cannot exceed 90 percent of the cost of development, operation or evaluation of early childhood programs. (*Sec. 623*)

The Commissioner of Education is authorized to provide, as part of any grant or contract under Part C or as a separate contract or grant to an agency, organization, or institution operating a center or providing services which fulfill the purposes of Part C, all or part of the cost of such activities as:

1) research on meeting the full range of special education needs of handicapped children.

2) developing or demonstrating new or improved methods contributing to the adjustment and education of such children.

3) training professional and allied personnel engaged in such programs; payment of stipends for trainees as well as travel and expense allowances for the trainee and his dependents are allowed.

4) dissemination of materials and information about effective practices.

The commissioner is directed to conduct or contract for the conducting of evaluation of such programs. (*Sec. 624*)

The Commissioner of Education is directed to conduct, either directly or by contract with independent organizations, a thorough and continuing evaluation of the effectiveness of each program assisted under Part C. (*Sec. 625*)

Part D–Training Personnel for the Education of the Handicapped: A training program for personnel for education of the handicapped is authorized. The Commissioner of Education may make grants to institutions of higher education and other appropriate nonprofit institutions to aid in the following:

1) providing training of professional personnel to conduct training of teachers and other specialists in fields related to the education of the handicapped;

2) providing training for personnel presently engaged or preparing to engage in employment as teachers of the handicapped, supervisors of such teachers, other personnel providing services for the education of handicapped children, or researchers in fields related to such education, and

3) establishing and maintaining scholarships with stipends and allowances determined by the commissioner for training personnel in the categories listed above. (*Sec. 631*)

The Commissioner may make grants to state educational agencies to assist them in establishing and maintaining, directly or through grants to higher education institutions, programs for training teachers of the handicapped or supervisors of such teachers. These grants shall also be available to assist the institutions in meeting costs of training. (*Sec. 632*)

Grants may be made to public or non-profit private agencies, organizations, or institutions for projects to encourage students and professional personnel to work in the education of the handicapped by developing and distributing innovative materials to assist in recruitment or by publicizing available financial aid. Grants may also be made to disseminate information about available services for the handicapped and to provide referral services for parents, teachers, and other interested persons. (*Sec. 633*)

The Commissioner of Education is authorized to make grants to institutions of higher education, to provide training for personnel in physical education and recreation for the handicapped. The Commissioner is also authorized to make grants related to research or teaching in fields related to the physical education and recreation of the handicapped. (*Sec. 634*)

Yearly reports to the Commissioner are required of all recipients of training grants. (*Sec. 635*)

Part E—Research in the Education of the Handicapped: Grants for research and demonstration purposes may be made to state or local education agencies, institutions of higher education, and other public or nonprofit private education or research agencies or organizations. (*Sec. 641*)

These agencies are also eligible for grants and contracts for research and demonstration projects in physical education and recreation for handicapped children. (*Sec. 642*)

Panels of experts appointed by the Commissioner are required to advise the Commissioner before making any grant under Part E of Title VI. (*Sec. 643*)

Part F—Instructional Media for the Handicapped: The purpose of this part is to provide captioned films for the deaf in both cultural and educational areas and the educational advancement of the handicapped through research, production, and distribution of educational media. The training of persons in the use of educational media for the instruction of the handicapped is also authorized. (*Sec. 651*)

The Commissioner is directed to establish a loan service of captioned films and educational media for the handicapped. Distribution of captioned films and other media and equipment may be done through state schools for the handicapped and other such agencies, which are determined to be appropriate local or regional distribution centers. (*Sec. 652*)

The Secretary of Health, Education, and Welfare is authorized to enter into agreement with an institution of higher education for the establishment and maintenance of a National Center on Educational Media and Materials for the Handicapped. The center will provide a comprehensive program to facilitate the use of new educational technology including the design, development, and adaptation of instructional materials. The contract with the institution shall authorize the center, subject to the approval of the secretary, to contract with public and private agencies and organizations for demonstration projects and provide for an annual report of the activities of the center to the U.S. Congress.

The Secretary, in considering applications, shall give preference to institutions which demonstrate the necessary capabilities for the development and evaluation of educational media for the handicapped and meet the educational technology needs of the Model Secondary School for the Deaf established under P.L. 89-694. (*Sec. 653*)

Part G—Special Program for Children with Specific Learning Disabilities: A program is authorized supporting research, training, and model centers to meet the needs of children with specific learning disabilities as defined in Part A, Section 602.

The Commissioner may make grants to or contracts with institutions of higher education, state and local education agencies, and other non-profit agencies and organizations to carry out the following program:

1) research and related activities, surveys, and demonstrations;

2) professional training for teachers of children with learning disabilities and supervisors and teachers of such personnel;

3) establishing and operating model centers to provide educational evaluation to identify children with learning disabilities;

4) developing and conducting model programs and assisting education agencies, organizations, and institutions in making model programs available.

Special consideration will be given to applications proposing innovative and creative approaches to meeting the educational needs of learning disabled children and those which emphasize prevention and early identification. The grants and contracts for the training of personnel should be distributed equitably on a geographic basis, and there should be, if possible, at least one model center in each state. (*Sec. 661*)

TITLE III, ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (P.L. 89-10)

The Commissioner of Education is directed to "carry out a program for making grants for supplementary educational centers and services, to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs." (*Sec. 301*)

Funds appropriated pursuant to Section 301 may be used for the following purposes:

1) planning which leads to the development of programs or projects designed to provide supplementary educational activities and services including pilot projects designed to test the effectiveness of plans.

2) the establishment or expansion of exemplary and innovative educational programs including special programs for handicapped children.

3) the establishment, maintenance, operation, and expansion of programs, including the lease or construction of necessary facilities and acquisition of equipment designed to enrich the programs of local elementary and secondary schools.

Supplementary educational services and activities are defined in the law to specifically include the following:

"(A) Comprehensive guidance and counseling, remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or re-enter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session;

"(B) Comprehensive academic services and, where appropriate, vocational guidance and counseling for continuing adult education;

"(C) Specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;

"(D) Making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and other nonprofit schools, organizations, and institutions;

"(E) Developing, producing, and transmitting radio and television programs for classroom and other educational use;

"(F) In the case of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs (including preschool education), because some or all of its schools are seriously overcrowded, obsolete, or unsafe, initiating and carrying out programs or projects designed to meet those needs, particularly those which will result in more effective use of existing facilities;

"(G) Providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, bilingual education methods, and visiting teachers' programs;

"(H) Encouraging community involvement in educational programs; and

"(I) Other specially designed educational programs or projects which meet the purposes of this title." (*Sec. 303*)

The states are required to establish an advisory council which shall include persons representative of "areas of professional competence dealing with children needing special education," set dates by which local education agencies must submit applications, and submit a state plan to the commissioner of education. (*Sec. 305*)

"Not less than 15 per centum of the amount which such state receives to carry out the plan in such fiscal year shall be used for special programs or projects for the education of handicapped children." (*Sec. 305*)

The President is directed to appoint a National Advisory Council on Supplementary Centers and Services to review the administration of, general regulations for, and operation of this Title, and to evaluate programs carried out under this Title Composition of the Council shall include "at least one person who has professional competence in the education of handicapped children." (*Sec. 309*)

TITLE I, ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (P.L. 89-10)

In recognition of the special educational needs of children of low income families and the impact that concentrations of low income families have on the ability of local educational agencies to support educational programs, the Title provides financial assistance to local educational agencies for the education of children of low income families. The improvement of educational programs in low income areas by various means, including preschool programs, is declared as policy. (*Sec. 101*)

Grants to expand and improve educational programs for children in institutions for the delinquent or neglected are made to state agencies and local educational agencies operating or supporting such institutions. Eligible institutions submit proposals in cooperation with state and local agencies such as health, welfare, education, or corrections agencies to the state educational agencies. The allocations for this program are formula based. (*Sec. 103*)

P.L. 89-313 amended this Title to provide grants to state agencies directly responsible for providing free public education for handicapped children. Students in state operated and supported institutions for the handicapped qualify for aid under the provisions set forth in this Title.

"In the case of a State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), the maximum basic grant which that agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by that State agency, in the most recent fiscal year for which satisfactory data are available. Such State agency shall use payments under this part only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children." (*Sec. 103*)

Payment to the states for handicapped children in state supported schools and institutions shall be the maximum grant as determined by the formula regardless of sums appropriated. (*Sec. 108*)

ECONOMIC OPPORTUNITIES AMENDMENTS OF 1972 (P.L. 92-424)

The Secretary of Health, Education, and Welfare must establish policies and procedures to assure that at least 10% of the enrollments in the Headstart program throughout the nation are available for handicapped children. Services shall be provided to meet the handicapped's special needs. Within six months after the enactment of this act (May 19, 1972) and annually thereafter, the Secretary must report to the Congress on the status of handicapped children in Headstart programs, including the number of children served, their handicapping conditions, and the services provided them.

GALLAUDET COLLEGE (P.L. 83-420)

The Act changes the name of the Columbia Institution for the Instruction of the Deaf and Dumb and Blind, Incorporated, to Gallaudet College, located in Washington, D.C. It is a private, non-profit educational instituion providing an undergraduate and graduate program for the deaf, a preparatory school for deaf students, a graduate school program in the field of deafness, and adult education for deaf persons. (*Sec. 2*) It operates the Kendall School for Deaf Children, a preschool program for very young deaf children, and programs in research on deafness.

The Act defines the corporate powers of Gallaudet College and provides for its organization and administration. (*Sec. 6*) Gallaudet College "shall be under the direction and control of a Board of Directors, composed of thirteen members." (*Sec. 5*)

The Act authorizes the appropriation of such sums "as the Congress may determine necessary for the administration, operation, maintenance, and improvement of Gallaudet College, including sums necessary for student aid and research, for the acquisition of property, both real and personal, and for the construction of buildings, and other facilities for the use of said corporation." (*Sec. 8*)

MODEL SECONDARY SCHOOL FOR THE DEAF ACT (P.L. 89-694)

The Secretary of the Department of Health, Education, and Welfare is authorized to enter into an agreement with Gallaudet College to establish the Model Secondary School for the Deaf, serving primarily the residents of the District of Columbia and nearby states. The high school will provide a model for the development of similar programs across the country in formulating new educational methods, technology, and curriculums.

The Department of Health, Education, and Welfare agreement with Gallaudet shall: 1) Provide for utilization of the National Advisory Committee on Education of the Deaf to advise Gallaudet on the establishment and operation of the model secondary school; 2) Provide an annual report to the HEW Secretary; 3) Provide excellence in architectual design in construction of any facilities along with innovative auditory and visual devices. (*Sec. 4*)

Such sums necessary for the establishment and operation, including construction and equipment, of a model secondary school "are authorized to be appropriated for each fiscal year." (*Sec. 2*)

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ACT OF 1965 (P.L. 89-36)

The Act authorizes the construction and operation of a residential facility for post secondary technical training and education for persons who are deaf in order to prepare them for successful employment. (*Sec. 2*) Preference will be given to the institute being located in a large metropolitan area having a wide variety of representative industries available for training experience. (*Sec. 5*) The institute will be affiliated with a major university for the administration of its program. (*Sec. 4*) The governing body of the institution is required to make an annual report to the Secretary. (*Sec. 5*) (The National Technical Institute for the Deaf is located at Rochester Institute of Technology in Rochester, N.Y.)

VOCATIONAL EDUCATION AMENDMENTS OF 1968 (P.L. 90-576)

Title I—Vocational Education: The Vocational Education Act provides that 10 percent of funds for vocational education must be spent for the handicapped. (*Sec. 122*) This program is designed to provide an effective vocational education program for the handicapped and to develop new programs relating to the vocational education needs of the handicapped. A National Advisory Council on Vocational Education is created and must have one member of the Council "experienced in the education and training of handicapped persons." State advisory councils on vocational education are also required to have a member "having special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons." Members are to be appointed by the elected state boards of education or by the governor. (*Sec. 104*)

The vocational education program operates through an approved state plan with 50 percent matching state funds. (*Sec. 103*)

Vocational education is defined in the following manner:

> "The term 'vocational education' means vocational or technical training or retraining which is given in schools or classes (including field or laboratory work and remedial or related academic and technical instruction incident thereto) under public supervision and control or under contract with a State board or local educational agency and is conducted as part of a program designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to

prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which requires a baccalaureate or higher degree; and such term includes vocational guidance and counseling (individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; job placement; the training of persons engaged as, or preparing to become, teachers in a vocational education program or preparing such teachers to meet special education needs of handicapped students; teachers, supervisors, or directors of such teachers while in such a training program; travel of students and vocational education personnel while engaged in a training program; and the acquisition, maintenance, and repair of instructional supplies, teaching aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land. (*Sec. 108*)

HIGHER EDUCATION AMENDMENTS OF 1972 (P.L. 92-328)

The commissioner of education may make grants and contracts with institutions of higher education, including institutions with vocational and career educational programs, or a combination of such institutions, public and private organizations and agencies including professional and scholarly associations and, in exceptional cases, secondary schools and secondary vocational schools, to plan, develop and carry out services to assist youths from low income families with academic potential but who may lack adequate secondary school preparation or who may be physically handicapped to enter, continue, or resume postsecondary education. These programs include "Talent Search" to:

1. identify qualified persons of financial or cultural need who have exceptional potential for secondary training and encourage them to complete secondary school and undertake such postsecondary training;
2. publicize existing student financial aid; and
3. encourage secondary or postsecondary dropouts of demonstrative aptitude to re-enter educational programs.

Also included is "Upward Bound" designed to generate skills and motivation necessary for postsecondary educational success. Participants in Upward Bound participant on a substantially full-time basis during all or part of the program.

"Special Services for Disadvantaged Students" provides remedial and other special services for students with academic potential enrolled in or accepted for enrollment at the institution which is the beneficiary of the grant or contract and who because of a deprived educational, cultural, or economic background, or a physical handicap needs these services to enable them to begin, continue or resume post-secondary education.

Up to 75 percent of the costs of establishing and maintaining Educational Opportunity Centers are provided to serve areas with major concentrations of low income populations by providing in cooperation with other applicable programs and services:

1. information regarding financial and academic assistance;
2. assistance to persons applying to postsecondary institutions, including preparing necessary applications; and
3. counseling and tutorial services and any other necessary services to persons attending such institutions.

These centers will also serve as recruiting and counseling pools to coordinate resources and staff efforst of higher education and other postsecondary institutions in admitting educationally disadvantaged persons.

Persons participating on a substantially full-time basis participating in any of the above programs may receive a stipend of up to $30 monthly. (*Sec. 417B*)

Loans are provided to college and university students. Full forgiveness is authorized on loans made to students who later teach handicapped children "in a public or other nonprofit elementary or secondary school system." The rate of forgiveness is 15 percent for the first or second year of such service, 20 percent for the third or fourth year, and 30 percent for the fifth year. (*Sec. 465*)

Title V—Education Professions Development: The Act establishes a National Advisory Council (*Sec. 502*) and empowers the Commissioner of Education to make grants to or contract with state or local educational agencies, institutions of higher education, and public and private agencies, institutions, or organizations to attract qualified persons into the field of education. (*Sec. 504*)

Fellowships leading to advanced degrees are authorized for teachers and related education personnel including persons in "child development and special education for handicapped children." (*Sec. 521*)

The commissioner is authorized to make grants to institutions of higher education, state educational agencies, and local educational agencies to conduct programs or projects including the following activities:

(1) programs or projects to train or retrain teachers, or supervisors or trainers of teachers, in any subject generally taught in the schools;

(2) programs or projects to train or retrain other educational personnel in such fields as guidance and counseling (including occupational counseling), school social work, child psychology, remedial speech and reading, child development, and educational media (including educational or instructional television or radio);

(3) programs or projects to train teacher aides and other non-professional educational personnel;

(4) programs or projects to provide training and preparation for persons participating in educational programs for children of preschool age;

(5) programs or projects to prepare teachers and other educational personnel to meet the special needs of the socially, culturally, and economically disadvantaged;

(6) programs or projects to prepare teachers and other educational personnel to meet the special needs of exceptionally gifted students;

(7) programs or projects to train or retrain persons engaging in programs of special education for the handicapped;

(8) programs or projects to train or retrain persons engaging in special educational programs for children of limited English-speaking ability;

(9) programs or projects to provide inservice and other training and preparation for school administrators, and

(10) programs or projects to prepare artists, craftsmen, scientists, artisans, or persons from other professions or vocations, or homemakers to teach or otherwise assist in programs or projects of education on a long-term, short-term, or part time basis. (*Sec. 531*)

Authorized grants or contracts may be used to pay the cost of short- or long-term institutes and other pre-service and in-service training programs designed to improve the qualifications of persons entering or re-entering elementary and secondary education or post-secondary vocational education. (*Sec. 531*)

Any state desiring to receive grants is required to submit a state plan through its state educational agency. (*Sec. 520*)

DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION AMENDMENTS OF 1970 (P.L. 91-517)

The Act amends the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88-164) to assist the states in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the states in the provision of such services in accordance with such plan, and to assist in the construction of facilities to provide the services needed to carry out such plan.

Title I, Services and Facilities for the Mentally Retarded and Persons with other Developmental Disabilities: Defines such disabilities as those attributable to mental retardation, cerebral palsy, epilepsy, or another neurological handicapping condition of an individual to which the following criteria apply: (1) the disability originates before such individual attains age 18; (2) the disability can be expected to continue indefinitely, and (3) the disability constitutes a substantial handicap to the individual.

The term "services" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability and includes "diagnosis, evaluation, treatment, personal care, daycare, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such a disability, and with his family, protective and other socio-legal services, information and referral services, follow-along services and transportation services." (*Sec. 140*)

The following grants are authorized:

"1) grants to assist the states in developing and implementing a comprehensive and continuing plan for meeting the current and future needs for services to persons with developmental disabilities;

"2) grants to assist public or non-profit private agencies in the construction of facilities for the provision of services to persons with developmental disabilities including facilities for any purpose stated in this section;

"3) grants for provision of service to persons with developmental disabilities including costs of operation, staffing and maintenance of facilities for persons with developmental disabilities;

"4) grants for state or local planning, administration, or technical assistance relating to services and facilities for persons with developmental disabilities;

"5) grants for training of specialized personnel needed for the provision of services for persons with developmental disabilities, or research related thereto, and

"6) grants for developing or demonstrating new or improved techniques for the provision of services for persons with developmental disabilities." (*Sec. 130*)

A national advisory council is created to advise the Secretary of Health, Education, and Welfare and to evaluate the effectiveness of programs. Membership of the council will consist of 20 leaders in the fields of service to the mentally retarded and other developmentally disabled persons. (*Sec. 133*)

The formula grant program of the Act operates through two main mechanisms at the state level: (1) the State Planning and Advisory Council, and (2),designated state agencies.

Membership on the state advisory councils is to include representatives of each of the principal state agencies, local agencies, and nongovernmental organizations and groups concerned with services for the developmentally disabled.

At least nine specific programs must be taken into account: vocational rehabilitation, public assistance, social services, crippled children's services, education for the handicapped, medical assistance, maternal and child health, comprehensive health planning, and mental health. Provision in the state plan must include special financial and technical assistance for areas of urban and rural poverty for persons with developmental disabilities. (*Sec. 134*)

Title II, Amendments to Part B of the Mental Retardation Facilities Construction Act: A program is provided for federal support of inter-disciplinary training in institutions of higher learning as well as for the construction of facilities to house these programs. Grants may be made to assist university affiliated facilities in the construction of special facilities capable of demonstrating exemplary care, treatment, education, and rehabilitation of the developmentally disabled. These grants may cover the costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel with developmental disabilities. (*Sec. 122*) Priority consideration will be given to projects involving junior colleges in training programs. (*Sec. 203*)

Project grants to the states are authorized to assist in the construction of public or non-profit facilities to provide a wide array of services to the developmentally disabled. (*Sec. 201*)

VOCATIONAL REHABILITATION ACT (P.L. 66-236) AS AMENDED

This Act establishes in the Department of Health, Education, and Welfare a National Advisory Council on Vocational Rehabilitation consisting of the Secretary or his designee, and 12 members who shall be leaders in fields concerned with vocational rehabilitation or in public affairs. Six of the 12 are to be selected from leading medical, education, or scientific authorities. (*Sec. 4*)

The Act authorizes the Secretary of the Department of Health, Education and Welfare to make grants assisting states in rehabilitating handicapped individuals so that they may "prepare for and engage in gainful employment to the extent of their capabilities." (*Sec. 1*) The program of basic support to states having submitted approved plans provides support for the following types of rehabilitation services for handicapped persons: (1) Comprehensive evaluation, including medical study and diagnosis; (2) medical, surgical, and hospital care, and related therapy to remove or reduce disability; (3) Prosthetic and orthotic devices; (4) Counseling and guidance services; (5) Training services; (6) Services in comprehensive or specialized rehabilitation facilities, including adjustment centers; (7) Maintenance and transportation as appropriate during rehabilitation; (8) Tools, equipment, and licenses for work on a job or in establishing a small business; (9) Reader services for the blind and interpreter services for the deaf; (10) Recruitment and training services to provide new careers for handicapped people in the field of rehabilitation and other public service areas; (11) The construction or establishment of rehabilitation facilities; (12) The provision of facilities and services which promise to contribute to a group of handicapped people, but which do not relate directly to the rehabilitation plan of any one individual;

(13) Services to families of handicapped people when such services will contribute substantially to the rehabilitation of the handicapped client; (14) Other goods and services necessary to render a handicapped person employable, and (15) Placement services, including follow-up services, to assist handicapped individuals to maintain their employment. (*Sec. 11*)

Funds under this program are also used for the initial establishment, management, and state agency supervision of vending stands for the blind authorized by the Randolph-Sheppard Act (P.L. 75-732).

The Secretary of the Department of Health, Education, and Welfare is authorized to make grants "to states and public and other nonprofit organizations and agencies for paying part of the cost of projects for research, demonstrations, training and traineeships, and projects for the establishment of special facilities and services, which, in the judgment of the Secretary, hold promise of making a substantial contribution to the solution of vocational rehabilitation problems and problems related to the rehabilitation of the mentally retarded." (*Sec. 4*)

Grants are awarded to assist in the construction and staffing of public or other nonprofit rehabilitation facilities. (*Sec. 12*)

Rehabilitation support activities include:

1. Contracts or jointly cooperative financial arrangements with employers and organizations for the establishment of projects designed "to prepare handicapped individuals for gainful employment in realistic work settings." (*Sec. 4*)
2. Expansion grants to states and nonprofit organizations and agencies for paying part of the cost of planning, preparing for, and initiating special programs to expand vocational rehabilitation services. (*Sec. 2*)
3. Grants to vocational rehabilitation agencies and other public and private nonprofit agencies to enable them to develop new programs to recruit and train handicapped individuals to provide them with new career opportunities in the fields of "health, welfare, public safety, law enforcement, and other appropriate public service employment." (*Sec. 4*)
4. Evaluation and work adjustment services to disadvantaged persons (including the handicapped). (*Sec. 15*)

The Secretary of the Department of Health, Education, and Welfare is authorized to enter into an agreement with any public or nonprofit agency or organization for payment of all or part of the costs of the establishment and operation of the National Center for Deaf-Blind Youths and Adults. The center is charged with the responsibility of demonstrating methods of providing the specialized intensive services needed to rehabilitate the deaf-blind and training personnel needed to staff facilities designed to provide such services. (*Sec. 16*) (The Center is located at the Industrial Home for the Blind, Brooklyn, N.Y.)

TITLE V, SOCIAL SECURITY ACT OF 1935 AS AMENDED

This Title authorizes project grants and formula grants to the states to support such programs as maternal and child health services, crippled children's services, maternity and infant care projects, maternal and child health research, and personnel training in maternal and child health.

The Title authorizes a program of formula grants to the states for services reducing infant mortality and improving the health of mothers and children. Geographical areas suffering severely from economic distress are to be given special consideration in the funding of programs. Some funds are used by the states to conduct special clinics for mentally retarded children and to provide diagnostic, counseling, treatment, and follow-up services. (*Sec. 503*)

A program of formula grants is also authorized to provide financial support to states, especially in areas suffering from economic distress, for medical and related services to crippled children and children suffering from conditions that lead to crippling. (*Sec. 504*)

The Title authorizes a program of project grants to help reduce the incidence of handicapping conditions associated with childbearing and to help reduce infant and maternal mortality. Grants are made to identify high-risk patients early in pregnancy and make available a broad spectrum of diagnostic and specialist consultation services including hospitalization during the prenatal period, labor, and delivery, and provision of intensive medical and nursing care for prematurely born and other high risk infants. Health and dental care projects for children and youth are also supported, particularly in areas where low income families are concentrated. (*Sec. 508*)

The Title authorizes a program of project grants to train personnel for health care and related services for mothers and children, particularly mentally retarded children and children with multiple handicaps. (*Sec. 511*)

A program of project grants is authorized to support research projects relating to maternal and child health services or crippled children's services showing promise of substantial contribution to the advancement of such services. (*Sec. 512*)

AN ACT TO PROMOTE THE EDUCATION OF THE BLIND (1879)

The Act creates the American Printing House for the Blind, a non-profit institute located in Lexington, Ky., which supplies educational materials and tangible apparatus to blind and multi-handicapped children and adults.

The Act establishes a perpetual fund, the interest of which the Secretary of Health, Education, and Welfare is authorized to pay to the trustees of the Printing House on a semi-annual basis. (*Sec. 2*) The appropriation shall be expended by the trustees each year "in manufacturing and furnishing books and other materials specially adapted for the instruction of the blind." These materials "shall each year be distributed among all the public institutions in the states, territories, and possessions of the United States, the Commonwealth of Puerto Rico and the District of Columbia, in which blind pupils are educated." (*Sec. 3*)

The superintendent of each public institution for the education of the blind (or his designee) and the chief state school officer shall serve as ex-officio members of the board of trustees of the American Printing House for the Blind. (*Sec. 3*) The trustees are required to make an annual report to the Secretary of the Treasury. (*Sec. 4*)

ELIMINATION OF ARCHITECTURAL BARRIERS TO THE PHYSICALLY HANDICAPPED IN CERTAIN FEDERALLY FINANCED BUILDINGS (P.L. 90-480)

The purpose of this Act is to insure that certain buildings financed with federal funds are designed and constructed so as to be accessible to the physically handicapped. The term "building" as defined in the Act refers to any building or facility intended for public use, other than a privately owned residential structure or buildings on a military installation designed and constructed for able-bodied military personnel. (*Sec. 1*) Appropriate standards of design and construction will be developed by the Secretary of Health, Education, and Welfare in consultation with the administrator of General Services Administration, Secretary of Housing and Urban Development, and the Secretary of Defense. (*Secs. 2-4*) Every federally financed building designed, constructed, or altered after the effective date of standards issued under this Act must be in compliance with these standards. (*Sec. 5*)

The Administrator of General Services, Secretary of Defense, and Secretary of Housing and Urban Development are empowered to "waive any such standard on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned." Administrator and Secretaries are required to conduct "such surveys and investigations as [they] deem necessary to assure compliance with such standards." (*Sec. 6*)